

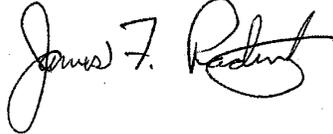
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Special
and Inventory Property Management
5-FLP**

Amendment 29

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reason for Amendment

Subparagraph 101 C has been amended to provide additional references for determining if a borrower has acted in good faith.

Subparagraphs 192 A and 196 C have been amended with updated clarifying regulation language.

Subparagraph 192 B has been amended with updated regulation requirements for determining unsuitable acreage.

Subparagraph 195 E has been amended with updated regulation requirements for the conservation management plan.

Subparagraph 199 has been added to include updated regulation requirements for the subordination of conservation contracts.

Subparagraph 200 has been added to include updated regulation requirements for handling failures to comply with conservation contracts.

Subparagraph 230 B has been amended with updated regulation requirements for challenging an agency appraisal.

Subparagraphs 401 D and 402 F have been amended to include accounts with no servicing options remaining.

Exhibit 2 has been amended to modify the definition of “Subordination”.

Exhibit 51 has been amended to update appeal wording.

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Section 3 Loan Servicing Processing and Requirements**101 Initial Processing****A General Policy**

FSA will not begin processing a loan servicing application until the application is complete.

FSA must process a complete loan servicing application within 60 calendar days of receiving a complete application. See Part 6, Section 2 for application processing deadlines.

102 Eligibility**A General**

[7 CFR 766.104(a)] A borrower must meet the following eligibility requirements to be considered for primary loan servicing:

Requirements specific to certain servicing actions are stated in Part 4.

B Entity Requirement

If the borrower is an entity or comprised of 2 or more individuals, the entity as well as each member must meet all eligibility requirements (as all are liable) and will be required to sign FSA-2026.

C Good Faith

***--[7 CFR 766.104(a)(4)] The borrower has acted in good faith.** If loan servicing is to be denied based on “lack of good faith”, a determination must be made by OGC according to 4-FLP, paragraph 100.--*

102 Eligibility (Continued)**D Reason for Delinquency or Distress**

[7 CFR 766.104(a)(1)] The delinquency or financial distress is the result of reduced repayment ability due to one of the following circumstances beyond the borrower's control:

- (i) Illness, injury, or death of a borrower or other individual who operates the farm;**
- (ii) Natural disaster, adverse weather, disease, or insect damage which caused severe loss of agricultural production;**
- (iii) Widespread economic conditions such as low commodity prices;**
- (iv) Damage or destruction of property essential to the farming operation; or**
- (v) Loss of, or reduction in, the borrower or spouse's essential non-farm income.**

If the borrower is delinquent or financially distressed because of an action within the borrower's control, the borrower is not eligible for loan servicing.

191 General Eligibility Requirements and Conservation Contract Limitations (Continued)

C Eligible Debt

Only FLP debt secured by the real estate under consideration can be canceled by a conservation contract.

D Contract Term

[7 CFR 766.110(d)] The borrower selects the term of the contract, which may be 10, 30, or 50 years.

E Conservation Contracts and CRP

A borrower may place a conservation contract on real estate already contracted to CRP if both terms of:

- FSA-2535 do not violate the terms of the CRP contract
- the CRP contract do not violate the terms of FSA-2535.

192 Eligible Land and Purposes

A Eligible Land

[7 CFR 766.110(a)(6)] Only loans secured by the real estate that will be subject to the *--Conservation Contract may be considered for debt reduction under this section.--*

[7 CFR 766.110(b)] The following types of land are eligible to be considered for a Conservation Contract by the Conservation Contract review team:

[7 CFR 766.110(b)] (1) Wetlands or highly erodible lands; and

[7 CFR 766.110(b)] (2) Uplands that meet any one of the following criteria:

[7 CFR 766.110(b)(2)] (i) Land containing aquatic life, endangered species, or wildlife habitat of local, State, tribal, or national importance;

Wildlife habitat is land that provides direct support for wildlife, species life stages, wildlife populations, or wildlife communities identified by either:

- the conservation agency within the State as being of State, regional, local, or tribal importance
- FWS to be of national importance.

This wildlife habitat area must have all acceptable environmental features such as air quality, water quality, vegetation, and soil characteristics.

[7 CFR 766.110(b)(2)] (ii) Land in 100-year floodplains;

[7 CFR 766.110(b)(2)] (iii) Areas of high water quality or scenic value;

[7 CFR 766.110(b)(2)] (iv) Historic or cultural properties listed in or eligible for the National Register of Historic Places;

[7 CFR 766.110(b)(2)] (v) Aquifer recharge areas of local, regional, State, or tribal importance;

[7 CFR 766.110(b)(2)] (vi) Buffer areas necessary for the adequate protection of *--proposed Conservation Contract areas, or other areas enrolled in other conservation programs;--*

[7 CFR 766.110(b)(2)] (vii) Areas that contain soils generally not suited for cultivation; or

[7 CFR 766.110(b)(2)] (viii) Areas within or adjacent to Federal, State, tribal, or locally administered conservation areas.

192 Eligible Land and Purposes (Continued)**A Eligible Land (Continued)**

These areas are within or adjacent to the following:

- National Park
- FWS-administered area
- State fish and wildlife agency administered area
- National Forest
- Bureau of Land Management administered area
- Wilderness Area
- National Trail
- unit of the Coastal Barrier Resource System
- abandoned railroad corridors contained in local, State, or Federal open space, recreation, or trail plans
- Federal or State wild or scenic river
- U.S. Army Corps of Engineers land designated for flood control or recreation purposes
- State and local recreation, natural, or wildlife areas
- State conservation agency administered areas.

***--B Unsuitable Acreage**

[7 CFR 766.110 (c)] Notwithstanding paragraph (b) (subparagraph 192 A) of this section, acreage is unsuitable for a Conservation Contract if:--*

- (1) It is not suited or eligible for the program due to legal restrictions;**
- (2) It has on-site or off-site conditions that prohibit the use of the land for conservation, wildlife, or recreational purposes; or**

192 Eligible Land and Purposes (Continued)***--B Unsuitable Acreage (Continued)**

(3) The Conservation Contract review team determines that the land does not provide measurable conservation, wildlife, or recreational benefits;

(4) There would be a duplication of benefits as determined by the Conservation Contract review team because the acreage is encumbered under another Federal, State, or local government program for which the borrower has been or is being compensated for conservation, wildlife or recreation benefits;

(5) The acreage subject to the proposed Conservation Contract is encumbered under a Federal, State, or Local government cost share program that is inconsistent with the purposes of the proposed Conservation Contract, or the required practices of the cost share program are not identified in the conservation management plan.

(6) The tract does not contain a legal right of way or other permanent access for the term of the contract that can be used by the Agency or its designee to carry out the contract; or

(7) The tract, including any buffer areas, to be included in a Conservation Contract is less than 10 acres.--*

C Eligible Purposes

[7 CFR 766.110(a)(4)] A Conservation Contract may be established for conservation, recreation, and wildlife purposes.

FSA-2535 must establish a conservation easement that either:

- conserves or protects wetlands, highly erodible land, upland, or wildlife habitat
- provides recreation land for public use
- conserves or protects wildlife habitat that contains fish and wildlife habitats of local, State, tribal, or national importance
- provides a combination of conservation and protection of wetlands, highly erodible land, upland, or wildlife habitat and recreation.

Recreational easements may be used for both consumptive, such as hunting and fishing, and nonconsumptive, such as camping and hiking, activities. Recreational easements must protect wildlife, conserve wildlife's habitats, ensure public safety, and comply with all applicable laws, regulations, and ordinances. Recreational easements cannot inhibit the operation of the remaining farm enterprise.

195 Conservation Contract Review Team (Continued)

E Conservation Management Plan

***--[7 CFR 766.110(e)] The Agency, with the recommendations of the Conservation Contract review team, is responsible for developing a conservation management plan. The conservation management plan will address the following:**

- (1) The acres of eligible land and the approximate boundaries, and**
- (2) A description of the conservation, wildlife, or recreation benefits to be realized.--***

Within 30 calendar days of visiting a farm, the conservation contract review team should submit a report to FSA indicating whether a conservation contract is appropriate given the nature of the land. The report must address:

- how many conservation eligible tracts could be established on the farm
- each tract's approximate boundaries, which may extend beyond wetland, highly erodible land, upland, and wildlife habitat if necessary for either the establishment of identifiable contract boundaries or for the efficient management of the tract
- each tract's land type
- the eligible conservation purposes that could be established on the tract.

The report must indicate any special terms or conditions that FSA would need to place on FSA-2535 because of unique or important features that would not be adequately addressed by the standard contract terms and conditions.

The conservation contract review team must develop a management plan for each conservation eligible tract. The management plans should:

- include detailed instructions on establishing and maintaining the conservation easement
- estimate the costs to the borrower involved in establishing and maintaining the conservation easement.

The management plan should specifically recommend whether public recreational use and public hunting should be allowed and justify these recommendations.

Each conservation contract review team member must sign the report. Any dissenting opinions should be included in the report.

F FSA's Review of Conservation Contract Review Team's Report

The conservation contract review team sends the finished report to the authorized agency official servicing the borrower's account. The authorized agency official must review the report for consistency with FSA requirements and goals. See subparagraphs 195 G and H for more information on processing FSA-2535 after reviewing the conservation contract review team's report.

195 Conservation Contract Review Team (Continued)**G Actions After Reviewing Conservation Contract Review Team Report**

The authorized agency official reviews the completed conservation contract review team report. If the report recommends a conservation contract, the authorized agency official determines the boundaries for each contract eligible area by the most appropriate method including, but not limited to, rectangular surveys, aerial photographs, or GPS waypoints. FSA does not require a professional survey of the contract area, but one can be used where FSA determines one is needed.

The authorized agency official must determine the costs that the borrower will incur to create and maintain each contract eligible conservation area. Before signing FSA-2535, FSA must ensure that a borrower has sufficient funds to create and maintain a conservation area.

For a delinquent or distressed borrower, the authorized agency official must determine which areas recommended in the report enable the borrower to develop a feasible plan. The authorized agency official should have determined through earlier financial analysis the contract term and minimum number of acres that must be set aside to enable the borrower to *--develop a feasible plan. The authorized agency official must rerun eDALR\$ to verify that each contract eligible area enables the borrower to develop a feasible plan.

For a current borrower who is not financially distressed, the farm operation must remain--* feasible after FSA-2535 is implemented.

196 Establishing Conservation Contract**A Borrower's Response to Conservation Contract Offer**

See Part 6 for information on borrower response deadlines to FSA loan servicing offers for delinquent or financially distressed borrowers.

If the authorized agency official offers a current borrower who is not financially distressed a conservation contract and the borrower decides to accept FSA's loan servicing offer, the borrower must respond to the authorized agency official within 45 calendar days of receiving the offer.

If the borrower possesses more than 1 contract eligible tract, the borrower must indicate both of the following:

- the tracts to be set aside for a conservation easement
- FSA-2535's term.

B FSA-2535

[7 CFR 766.110(j)] The borrower must sign the Conservation Contract Agreement establishing the contract's terms and conditions.

To establish a conservation contract, the authorized agency official and borrower shall complete and sign FSA-2535.

- All recorded owners of a property receiving a conservation contract must sign FSA-2535.
- If State law allows, the contract is recorded in the real estate records according to a State supplement.

The authorized agency official must review and write a legal description of conservation contract boundaries based on information in the farm's deed.

The authorized agency official attaches the legal description of conservation contract boundaries and a map or aerial photo marked with conservation contract boundaries to the completed and signed FSA-2535.

The authorized agency official must retain a copy of the contract in the borrower's file as long as the borrower has an active FLP account. The authorized agency official also will provide the borrower a copy of the contract.

[7 CFR 766.110(k)] If the borrower or any subsequent landowner transfers title to the property, the Conservation Contract will remain in effect for the duration of the contract term.

196 Establishing Conservation Contract (Continued)**C FSA-2535 Management Authority**

[7 CFR 766.110(f)] The Agency has enforcement authority over the Conservation Contract. The Agency, however, may delegate contract management to another entity *-if doing so is in the Agency's best interest.--*

Under no circumstances will the borrower be delegated as conservation contract manager.

197 Handling Noncash Credit**A General**

FSA applies the debt canceled by the conservation contract against the borrower's real estate debt as a noncash credit. This noncash credit action does not affect the borrower's current payment amount and debt repayment schedule unless the loan is otherwise serviced.

The authorized agency official may reamortize any FLP debt that remains on a borrower's account after the noncash credit has been applied.

B Applying Noncash Credit to a Borrower's Account

FSA applies noncash credit from the conservation contract only to FLP loans secured in whole or in part by real estate. If the borrower receiving a conservation contract has more than 1 outstanding loan secured by real estate, FSA credits the loan with the lowest security priority first. If the borrower possesses 2 or more outstanding loans secured by real estate with equal security priority, FSA credits the loan with the largest amortization factor first.

FSA applies noncash credit to the borrower's account in the following manner.

- The authorized agency official uses eDALR\$ to determine the amount of debt canceled by the conservation contract.
- FSA reduces the real estate debt in the first loan selected for crediting by the amount of debt canceled by the conservation contract.
- If the authorized agency official cancels all the real estate debt in the first loan and conservation contract's debt cancellation figure has not been exhausted, the authorized agency official selects a loan secured by real estate with the next highest security position for crediting.
- The authorized agency official repeats this process until the conservation contract's debt cancellation figure is exhausted or the authorized agency official has written down all FLP debt secured by real estate.

197 Handling Noncash Credit (Continued)**C Processing Noncash Credit for a Delinquent Borrower**

*--The authorized agency official will use FSA-2597 as the source document to complete the 3H – Conservation Contract transaction in DLS Special Servicing.

Before the 3H transaction can be processed in DLS, the authorized agency official must process a 1M transaction to reamortize or reschedule the loan with the same effective date as FSA-2535.

This process does **not** apply, however, to loans receiving both a conservation contract and a write-down with SAA. If any loan receives both a conservation contract and write-down with SAA, the authorized agency official must process a 1M transaction, 3H transaction, and 3R transaction in DLS, using the same effective date.

D Processing Noncash Credit for a Current Borrower

The authorized agency official will use FSA-2597 as the source document to complete the 3H – Conservation Contract transaction in DLS Special Servicing.--*

198 Rights and Responsibilities Under Conservation Contract**A Borrower's Rights Under Conservation Contract**

Unless explicitly prohibited by FSA-2535 or a conservation contract management plan, the borrower has the right to:

- prevent trespassing by the general public and control public access to the conservation contract property
- use the conservation contract property for recreational purposes, including hunting and fishing

198 Rights and Responsibilities Under Conservation Contract (Continued)**A Borrower's Rights Under Conservation Contract (Continued)**

- receive economic gain from the leasing of the conservation contract property for recreational use, including hunting and fishing, pursuant to applicable State and Federal hunting and fishing regulations
- retain oil, gas, minerals, and geothermal resources beneath the conservation contract property, provided that the extracting activities are established outside the conservation contract's boundaries and do not adversely affect the conservation contract property
- record title, along with the right to convey and transfer title.

B Borrower's Request for Government Authorization Under FSA-2535

If the borrower wants to pursue any action on the land covered by a conservation contract not explicitly allowed by the terms and conditions of FSA-2535, the borrower must obtain the Government's written authorization in advance. The borrower must make the request for authorization in writing.

To provide the borrower authorization, the authorized agency official must:

- determine that the proposed action does not violate a conservation contract's terms and conditions
- receive the written concurrence of the conservation contract management authority if the authority is outside FSA
- develop and approve a revised conservation contract management plan with the participation of the conservation contract review team.

The authorized agency official consults with SED and OGC as necessary.

C Responsibilities and Enforcement Under FSA-2535

Borrower responsibilities, FSA's rights, and contract enforcement will be according to the provisions of FSA-2535.

--199 Subordination Requirements for Conservation Contracts*A Subordination**

[7 CFR 766.110 (m)] For real estate with a Conservation Contract:

- (1) Subordination will be required for all liens that are in a prior lien position to the Conservation Contract.**
- (2) The Agency will not subordinate Conservation Contracts to liens of other lenders or other Governmental entities.**

200 Failure to Comply With Conservation Contract**A Breach of Conservation Contract**

[7 CFR 766.110 (n)] Breach of Conservation Contract. If the borrower or a subsequent owner of the land under the Conservation Contract fails to comply with any of its provisions, the Agency will declare the Conservation Contract breached. If the Conservation Contract is breached, the borrower or subsequent owner of the land must restore the land to be in compliance with the Conservation Contract and all terms of the conservation management plan within 90 days. If this cure is not completed, the Agency will take the following actions:

- (1) For borrowers who have or had a loan in which debt was exchanged for the Conservation Contract and breach the Conservation Contract, the Agency may reinstate the debt that was cancelled, plus interest to the date of payment at the rate of interest in the promissory note, and assess liquidated damages in the amount of 25 percent of the debt cancelled, plus any actual expenses incurred by the Agency in enforcing the terms of the Conservation Contract. The borrower's account will be considered in non-monetary default; and**
- (2) Subsequent landowners who breach the Conservation Contract must pay the Agency the amount of the debt cancelled when the contract was executed, plus interest at the non-program interest rate to the date of payment, plus liquidated damages in the amount of 25 percent of the cancelled debt, plus any actual expenses incurred by the Agency in enforcing the terms of the Conservation Contract.**

B Challenging the Agency Appraisal

- (1) Obtain a USPAP compliant technical appraisal review prepared by a State Certified General Appraiser of the Agency's appraisal and provide it to the Agency prior to reconsideration or the appeal hearing;**

[7 CFR 766.115 (b)] If the appraised value of the borrower's assets change as a result of the challenge, the Agency will reconsider its previous primary loan servicing decision using the new appraisal value.--*

201-210 (Reserved)

230 Appraisals**A Overview of Options to Challenge Appraisals**

The borrower has 30 calendar days to request an appeal on the appraisal according to 1-APP.

FSA will maintain a list of State-certified appraisers. FSA must review any appraisal or review obtained to determine compliance with the requirements of 1-FLP, Part 6. A copy of the appraisal or review will be provided to FSA before any negotiation, reconsideration or appeal hearing.

--B Challenging the Agency Appraisal--

[7 CFR 766.115(a)] A borrower considered for primary loan servicing who does not agree with the Agency's appraisal of the borrower's assets may:

--(1) Obtain a USPAP compliant technical appraisal review prepared by a State Certified General Appraiser of the Agency's appraisal and provide it at the Agency prior to reconsideration or the appeal hearing;--

(2) Obtain an independent appraisal completed in accordance with § 761.7 as part of the appeals process. The borrower must:

(i) Pay for this appraisal;

(ii) Choose which appraisal will be used in Agency calculations, if the difference between the two appraisals is 5 percent or less.

230 Appraisals (Continued)

--B Challenging the Agency Appraisal (Continued)--

[7 CFR 766.115(a)(3)] Negotiate the Agency's appraisal by obtaining a second appraisal.

Within 30 calendar days of submitting the request to negotiate the appraisal, the borrower may:

[7 CFR 766.115(a)(3)] (i) If the difference between the two appraisals is 5 percent or less, the borrower will choose the appraisal to be used in Agency calculations.

[7 CFR 766.115(a)(3)] (ii) If the difference between the two appraisals is greater than 5 percent, the borrower may request a third appraisal. The Agency and the borrower will share the cost of the third appraisal equally. The average of the two appraisals closest in value will serve as the final value.

FSA, the borrower, and the appraiser will sign FSA-2529 to agree on paying for the third appraisal. The borrower will select the appraiser from a list provided by FSA. The list shall include at least 3 appraisers that did not conduct either of the 2 appraisals.

The authorized agency official will compare the 3 appraisals and average the 2 appraisals closest in value. This is the final appraised value. The borrower may not appeal the negotiated appraised value.

[7 CFR 766.115(a)(3)] (iii) A borrower may request a negotiated appraisal only once in connection with an application for primary loan servicing.

[7 CFR 766.115(a)(3)] (iv) The borrower may not appeal a negotiated appraisal.

C Continued Processing

[7 CFR 766.115(b)] If the appraised value of the borrower's assets change as a result of *--the challenge, the Agency will reconsider its previous primary loan servicing decision--* using the new appraisal value.

[7 CFR 766.115(c)] If the appeal process results in a determination that the borrower is eligible for primary loan servicing, the Agency will use the information the appeal officer used in making the decision on the appeal, unless stated otherwise in the appeal decision letter.

Part 11 Bankruptcies, Civil and Criminal Cases, and Judgments**Section 1 Bankruptcy****401 FSA Actions When Borrower Files for Bankruptcy****A Suspending Loan Servicing**

If a borrower files bankruptcy, the authorized agency official will suspend all pending special servicing and collection actions, but will continue to monitor the account and conduct regular servicing to protect the interests of the Government.

B Flagging the Account

Upon notification that the borrower has filed bankruptcy, the authorized agency official will *--flag the account as “BAP” by using FSA-2562 and processing a 5G transaction. The “BAP” flag will remain on the account until 1 of the following occurs:--*

- bankruptcy is dismissed
- borrower is discharged, no longer under court jurisdiction, and FSA has no remaining loan collateral from which collection can be made
- the case has been closed.

Note: The “51-S” flag must be removed with a 5H transaction before a “BAP” flag can be established (Exhibit 11).

C Notifying the Borrower’s Attorney of Loan Servicing Options if Borrower Was Not Previously Notified

[7 CFR 766.301] If a borrower files for bankruptcy, the Agency will provide written notification to the borrower’s attorney with a copy to the borrower as follows:

(a) The Agency will provide notice of all loan servicing options available under Subpart C (Part 3) of this part, if the borrower has not been previously notified of these options.

Within 15 calendar days of receiving a notice of bankruptcy, the authorized agency official will send all borrowers and the borrowers’ attorney Exhibit 34, the appropriate notice, and the response form according to subparagraph 67 A. If the borrower does **not** have an attorney, the borrower only will receive the FSA forms.

401 FSA Actions When Borrower Files for Bankruptcy (Continued)**D Notifying the Borrower's Attorney of Servicing Options if the Borrower Was Previously Notified**

[7 CFR 766.301(b)] If the borrower received notice of all loan servicing options available under Subpart C (Part 3) of this part prior to the time of bankruptcy filing but all loan servicing was not completed, the Agency will provide notice of any remaining loan servicing options available.

If FSA notified the borrower of primary loan servicing before the borrower filed for bankruptcy and some servicing options are still available, the authorized agency official will send Exhibit 34 and the appropriate servicing forms along with any required application forms to all borrowers and the borrowers' attorney (if the borrowers have no attorney, then all notifications and timeframes will apply to the borrowers only) explaining what options remain. Servicing and servicing timeframes suspended on the date the borrower files for bankruptcy resume on the date the attorney receives Exhibit 34. If no servicing options remain, send Exhibit 34 to inform the borrower and attorney that no primary loan servicing options remain.

--If the borrower or borrower's attorney does not request any remaining servicing options, or no servicing options remain, the authorized agency official will not take any further action-- to liquidate the account until the stay is lifted and they are notified by the State Office.

E Referring a Bankruptcy to the State Office

The authorized agency official will inform the State Office of any developments in the borrower's bankruptcy case, but will take no action against the security unless directed by SED.

SED should issue a State supplement describing what information is to be forwarded to the State Office in the event of a borrower filing bankruptcy. SED may issue additional State supplements as required to comply with State laws with regional OGC guidance/advice.

402 Borrowers' Rights and Responsibilities About Loan Servicing**A Application Requirements for a Borrower Not Previously Notified of Loan Servicing Options**

[7 CFR 766.302(a)] To be considered for loan servicing, the borrower or borrower's attorney must sign and return the appropriate response form and any forms or information requested by the Agency within 60 days of the date of receipt of Agency notice on loan servicing options.

B Application Requirements for a Borrower With Previous Monetary and Nonmonetary Notification Pending

[7 CFR 766.302(b)] To be considered for continued loan servicing, the borrower or borrower's attorney must sign and return the appropriate response form and any forms or information requested by the Agency within the greater of:

(1) Sixty days after the borrower's attorney received the notification of any remaining loan servicing options; or

(2) The remaining time from the Agency's previous notification of all servicing options that the Agency suspended when the borrower filed bankruptcy.

C Acknowledgment of Agency Noninterference With the Bankruptcy Code

[7 CFR 766.303(a)] Any request for servicing is the borrower's acknowledgment that the Agency will not interfere with any rights or protections under the Bankruptcy Code and its automatic stay provisions.

D Obtaining Court Approval Before Exercising Servicing Rights

[7 CFR 766.302(c)] The borrower is responsible for obtaining court approval prior to exercising any available servicing rights.

402 Borrowers' Rights and Responsibilities About Loan Servicing (Continued)**E When a Bankruptcy Plan Is Confirmed Before Servicing or Appeals Are Completed**

[7 CFR 766.303(b)] If a plan is confirmed before servicing and any appeal is completed under 7 CFR part 11, the Agency will complete the servicing or appeals process and may consent to a post-confirmation modification of the plan if it is consistent with the Bankruptcy Code and subpart C (Part 3) of this part, as appropriate.

F Chapter 7 Servicing Requirements

[7 CFR 766.303(c)] A borrower filing for bankruptcy under Chapter 7 of the Bankruptcy Code may not receive primary loan servicing unless the borrower reaffirms the entire Agency debt. A borrower who filed chapter 7 does not have to reaffirm the debt in order to be considered for homestead protection.

If the borrower decides to reaffirm the entire FLP debt, FSA will accept the reaffirmation.

Once the borrower obtains permission from the court and reaffirms the debt, the authorized agency official will process the primary loan servicing application, or remaining servicing options as indicated in Exhibit 34.

The borrower may use a court-approved Reaffirmation Agreement (B240A) found at <http://www.uscourts.gov/bkforms/index.html> to request debt reaffirmation. SED may:

- with advice from the regional OGC and/or the U.S. Attorney's office, authorize use of another form/format by issuing a State supplement
- issue a State supplement about procedures for reaffirmation of debt.

If the borrower reaffirms the debt in order to be considered for primary loan servicing as indicated in Exhibit 34, but FSA later denies the servicing, the borrower may revoke the reaffirmation subject to the provisions of the Bankruptcy Code.

Definitions of Terms Used in This Handbook (Continued)**Redemption Right**

Redemption right is a Federal or state right to reclaim property for a period of time established by law, by paying the amount paid at an involuntary sale plus accrued interest and costs.

Related by Blood or Marriage

Related by blood or marriage is being connected to one another as husband, wife, parent, child, brother, sister, uncle, aunt, or grandparent.

Repossessed Property

Repossessed property is security property in the Agency's custody.

Rescheduling

Rescheduling is the rewriting of the rates or terms, or both, of a loan made for operating purposes.

Restructuring

Restructuring is the process of changing the terms of a debt through rescheduling, reamortization, deferral, writedown, or a combination thereof.

Right-of-Way

A **right-of-way** is a legal right of passage over another person or entity's land.

Sealed Bid Sale

A **sealed bid sale** is a public sale in which property is offered to the highest bidder by prior written bid submitted in a sealed envelope.

Security

Security is property or a right of any kind that is subject to a real or personal property lien. Any reference to "collateral" or "security property" will be considered a reference to the term "security."

Security Instruments

Security Instruments includes any document giving the Agency a security interest on real or personal property.

Definitions of Terms Used in This Handbook (Continued)**Shared Appreciation Agreement**

A **Shared Appreciation Agreement** is an agreement between the Agency, or a lender in the case of a guaranteed loan, and a borrower on the appropriate Agency form that requires the borrower who has received a writedown on a direct or guaranteed loan secured by real estate to repay the Agency or the lender some or all of the writedown received, based on a percentage of any increase in the value of the real estate securing an SAA at a future date.

Socially Disadvantaged Applicant or Farmer

A **socially disadvantaged applicant or farmer** is an individual or entity who is a member of a socially disadvantaged group. For an entity, the majority interest must be held by socially disadvantaged individuals. For married couples, the socially disadvantaged individual must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.

Socially Disadvantaged Group

A **socially disadvantaged group** is a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.

Special Hazard Area

Special Hazard Area is a mudslide hazard area, a special flood area, or an earthquake area.

Subordination

*--**Subordination** is a creditor's temporary relinquishment of all or a portion of its lien priority to another party providing the other party with a priority lien on the collateral.--*

Subsequent Loan

Subsequent loan is any FLP loan processed by the Agency after an initial loan of the same type has been made to the same borrower.

Notice of Acceleration of Your Debt to the Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of That Debt

Note: Exhibit 51 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “5-FLP Exhibit 51”.

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5-FLP, Exhibit 51

This Exhibit may only be revised by SED with concurrence of OGC.

(Use Agency Letterhead format with local return address.)

CERTIFIED MAIL

[Date]

(Borrower)
(Co-Borrower)
(Address)
City, State Zip code

NOTICE OF ACCELERATION OF YOUR DEBT TO THE FARM SERVICE AGENCY BASED ON CONFIRMED BANKRUPTCY PLAN WITH DISCHARGE AND DEMAND FOR PAYMENT OF THAT DEBT

Dear

PLEASE TAKE NOTE that the entire indebtedness due under the Chapter ____ Plan confirmed on ____ in Bankruptcy Case No. ____ which evidences the loan(s) received by you from the United States of America, acting through the Farm Service Agency (FSA), United States Department of Agriculture is now declared immediately due and payable. The obligation set out in the confirmed Chapter ____ Plan is described as follows:

Date of Bankruptcy Plan Confirmation Order	Amount
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The amount(s) set out in the confirmed Chapter ____ Plan is/are secured by real estate mortgage(s), deed(s) of trust, security agreements(s), financing statement(s), etc. described (perfected) as follows:

Security Instrument	Date	Recording Office	Recording Information
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The acceleration of your indebtedness is made in accordance with the authority granted in the above-described instrument(s). Although, this is not an acceleration of your debt owed to the FSA prior to confirmation of the Chapter ____ Plan, it is fully effective to accelerate the debt as set out in the Chapter ____ Plan.

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Notice of Acceleration of Your Debt to the Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of That Debt (Continued)

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5-FLP, Exhibit 51

The reason(s) for the acceleration of your indebtedness is(are) as follows:

[If debt under the confirmed Chapter ____ Plan is in monetary default, list this as one of the reasons. If the debt is not in monetary default, obtain concurrence of OGC before acceleration.]

The indebtedness due as a result of your Chapter ____ Plan is \$____ unpaid principal, and \$____ unpaid interest, as of ____ plus additional interest accruing at the rate of \$____ per day thereafter, plus any advances made by the United States for the protection of its security and interest accruing on any such advances. Unless full payment of your indebtedness is received, made by one of the methods described below, within 30 days from the date of this letter, the United States will foreclose the above described security instrument(s) and pursue any other available remedies.

Full payment may be made in any of the following ways:

(A) CASH

Payment should be made by cashier's check, certified check, or postal money order payable to the Farm Service Agency and delivered to FSA at _____. If you submit to the United States any payment insufficient to pay the account in full or insufficient to comply with any arrangements agreed to between FSA and yourself, that payment WILL NOT CANCEL the effect of this notice. If such insufficient payments are received and credited to your account, no waiver of prejudice of any rights which the United States may have for breach of any promissory note or debt evidenced by your confirmed Chapter ____ Plan or covenant in the security instrument(s) will result and FSA may proceed as though no such payment had been made.

(B) TRANSFER AND ASSUMPTION

Subject to FSA approval, you may transfer the collateral for your debt to someone who is eligible for FSA assistance and is willing and able to assume the debt. Contact FSA at _____ immediately if you are interested in this.

(C) SALE

You may sell the collateral for your loan(s) for its market value and send the proceeds to FSA to or other creditors with liens prior to FSA's lien. Contact FSA immediately if you are interested in this.

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Notice of Acceleration of Your Debt to the Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of That Debt (Continued)

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5-FLP, Exhibit 51

*(D) VOLUNTARY CONVEYANCE

You may convey all of your collateral to the United States. Contact FSA at _____ immediately if you are interested in this.

** (The above-described security instrument(s) provide(s) that the UNITED STATES may foreclose without Court action by selling the property at public sale after _____. The United States intends to sell the property in this manner.

*** If you have not been advised of your rights to request deferral of payments or other servicing options you should contact FSA at the above-mentioned address within 15 days of the receipt of this notice.

If you fail to comply with the requirements outlined in this notice within the next 30 days, the UNITED STATES plans to proceed with foreclosure/liquidation.

If your account is referred to the Department of Justice for foreclosure and/or other collection activity after foreclosure, such as a deficiency judgment or enforcing a judgment lien, attorney's fees may be added to your debt as well as a Department of Justice fee of 3 percent.

YOU DO NOT HAVE ANY RIGHT TO APPEAL THIS DECISION TO ACCELERATE YOUR FSA DEBTS.

UNITED STATES OF AMERICA

[name]
[title]
Farm Service Agency
United States Department of Agriculture

CC: FSA State Executive Director,
FSA Farm Loan Programs Division,
FSA Farm Loan Manager

Notice to Customers Presenting Checks

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. For inquires, please contact your local office.

Privacy Act – A Privacy Act Statement required by 5.U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available from our internet site at (<http://www.fms.treas.gov/otcnet/index.html>), or call toll free at (1-866-945-7920) to obtain a copy by

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Notice of Acceleration of Your Debt to the Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of That Debt (Continued)

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5-FLP, Exhibit 51

mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

*This will be included as an option only if it would be in the United States financial interest to accept a voluntary conveyance offer.

**This paragraph will be omitted in States with judicial foreclosure or if it conflicts with State law.

***This paragraph will be omitted when accelerating accounts for failure to graduate or accelerating accounts of non-program loan debtors.

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