

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

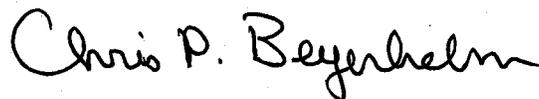
---

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

**Amendment 30**

---

**Approved by:** Deputy Administrator, Farm Loan Programs



---

**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 160 A has been amended to provide clarification in an effort to correct repeated errors identified in deferral reviews completed by the National Office.

Subparagraph 196 C “note” has been added to provide clarification on delegation of contract manager authority.

Subparagraph 200 B has been removed as a correction to the previous amendment.

Subparagraph 344 A has been amended to revise the title for clarification.

Subparagraph 346 E has been amended to provide clarification on closing Shared Appreciation Repayment Agreements.

Subparagraph 401 B has been amended to revise the directions for using the “BAP” flag

Subparagraph 406 A has been amended to remove the “CO” special classification code

Subparagraph 407 F has been amended to revise the directions for using the “BAP” flag, remove the “CO” special classification code, and add partial cancellation information for unsecured loans when the discharged former borrower is making payments on the secured loans.

Paragraph 956 has been withdrawn because partial cancellation information has been moved to subparagraph 407 F.

Exhibit 11 has been amended to remove the “CO” special classification code.

Exhibit 16, subparagraph B has been amended to clarify that accounts returned as uncollectible from cross-servicing shall be cancelled when 3 qualifying conditions have been met.

## Amendment Transmittal (Continued)

### A Reasons for Amendment (Continued)

Exhibit 17, subparagraphs 5 A and 5 G have been amended to update eDALR\$ constants for the year.

Exhibits 31, 40, and 41 have been amended to remove obsolete equal credit opportunity language.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
9, 10	4-51, 4-52 5-21, 5-22 5-25 9-7, 9-8 9-11 through 9-16 11-1, 11-2 11-9 through 11-12 24-5, 24-6 24-7, 24-8 (remove)	11, page 1 page 2 (remove) 16, pages 9, 10 17, pages 37, 38 pages 41, 42 31, page 1 page 2 (add) 40, pages 1, 2 page 3 41, pages 1, 2 page 3

**Table of Contents (Continued)**

**Page No.**

**Part 22 Selling and Leasing Inventory Real Property With Special Characteristics**

**Section 1 Inventory Property Containing Important Environmental Resources**

801 Overview ..... 22-1  
802 Leasing or Selling Inventory Property With Important Environmental  
Resources ..... 22-2  
803 Wetland Conservation Easements..... 22-3  
804 Mandatory Conservation Easements..... 22-5  
805 Discretionary Easements..... 22-6  
806 Conservation Transfers ..... 22-7  
807-820 (Reserved)

**Section 2 Inventory Property Located in Special Hazard Areas**

821 Selling or Leasing Inventory Property Located in Special Hazard Areas ..... 22-31  
822-835 (Reserved)

**Section 3 Inventory Real Property Containing Environmental Risks**

836 Overview ..... 22-61  
837 Environmental Risk Management..... 22-62  
838 Properties Containing Hazardous Waste ..... 22-63  
839 Properties Containing Underground Storage Tank Systems or  
Petroleum Products ..... 22-64  
840 Properties Containing Medical Waste, Lead-Based Paint, or Asbestos ..... 22-65  
841 Real Property That Is Unsafe ..... 22-65  
842-900 (Reserved)

**Part 23 Servicing Borrowers with Both FSA and RD Loans**

901 Servicing Delinquent and Financially Distressed Accounts ..... 23-1  
902 Handling Voluntary Conveyances and Foreclosures Against Joint Security  
for Loans on Separate Security Instruments ..... 23-6  
903 Handling Voluntary Conveyances and Foreclosures Against Joint Security  
for Loans on the Same Security Instrument..... 23-8  
904 Property ID Numbers ..... 23-11  
905 ADPS 3E Transactions ..... 23-12  
906-949 (Reserved)

**Table of Contents (Continued)**

**Page No.**

**Part 24      Servicing Unsecured Account Balances**

950	After Liquidation of Security.....	24-1
951	After Conveyance of Security.....	24-2
952	CNC Debt.....	24-3
953	Cross-Servicing.....	24-4
954	AWG.....	24-4
955	Debt Settlement.....	24-5
956	(Withdrawn--Amend. 30)	

**Exhibits**

1	Reports, Forms, Abbreviations, and Redelegations of Authority	
2	Definitions of Terms Used in This Handbook	
3	(Reserved)	
4	State Supplements	
5-9	(Reserved)	
10	Notification of the Availability of the Disaster Set-Aside Program	
11	Account Description Flag and Code Reference	
12	(Reserved)	
13	Third Party Pledge of Security Notification Letter	
14	Youth Loan Notification Letter	
15	Quarterly Screening Process for TOP	
16	Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt	
17	Instructions for Using eDALR\$	
18-24	(Reserved)	
25	Shared Appreciation Agreement Reminder	
26	Calculation of Shared Appreciation Recapture	
27-29	(Reserved)	
30	Initial Letter to Borrowers Who Received Unauthorized Assistance	
31	Letter to Borrowers Who Received Unauthorized Assistance – Final Determination	
32, 33	(Reserved)	
34	Notice to Borrower’s Attorney Regarding Loan Servicing Options	
35	(Reserved)	
36	Administrative Wage Garnishment (AWG)	
37	Worksheet for Accepting a Voluntary Conveyance of Farm Loan Programs Security Property Into Inventory	
38	10-Day Notice of Non-Program Loan Delinquency	
39	30-Day Reminder of Non-Program Loan Delinquency	
40	Notice of Acceleration of Your Debt (Non-Program) to the Farm Service Agency (FSA) and Demand for Payment of That Debt	
41	Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non-Program)	
42, 43	(Reserved)	

## Section 3 Deferrals

## 159 Conditions and Operating Plans

## A Conditions for approving Deferrals

[7 CFR 766.109(a)] The Agency will only consider deferral of loan payments if:

- (1) The borrower meets the loan servicing eligibility requirements of §766.104 (paragraph 102);
- (2) Rescheduling, consolidation, and reamortization of all the borrower's loans, will not result in a feasible plan with 110 percent debt service margin;
- (3) The need for deferral is temporary; and
- (4) The borrower develops feasible first-year deferral and post-deferral farm operating plans subject to the following:
  - (i) The deferral will not create excessive net cash reserves beyond that necessary to develop a feasible plan.

FSA does not allow net cash reserves for capital purchases beyond those required to develop a feasible plan, as such purchases are not considered operating expenses.

- (ii) The Agency will consider a partial deferral if deferral of the total Agency payment would result in the borrower developing more cash availability than necessary to meet debt repayment obligations.

\*--eDALR\$ will be used to determine whether a repayment plan can be developed.--\*

## B First Year Plan

The plan developed according to subparagraph 81 H is the first year plan of the deferral.

## C Post-Deferral Plan

A post-deferral plan is developed to project the borrower's operations for the year following the deferral period according to subparagraph 160 A.

**160 Deferral Period and Associated Restructuring****A Deferral period**

**[7 CFR 766.109(b)] (1) The deferral term will not exceed 5 years and will be determined based on the post- deferral plan that results in the:**

- (i) Greatest improvement over the first year cash available to service FLP debt;**
- (ii) The shortest possible deferral period.**

**(2) The Agency will distribute interest accrued on the deferred principal portion of the loan equally to payments over the remaining loan term after the deferral period ends.**

Deferrals are beneficial only if the cash available to service the borrower's FSA debt increases in the year after the deferral period ends.

In some cases, such as in a major reorganization of the operation, debt structure, or essential development, it may be necessary to develop and consider plans for multiple years.

\*--Justification for length of deferral must be well documented in the case file.

FSA-2026 must identify debt as rescheduled or reamortized with deferral and include the addendum required by FSA-2026 instructions.--\*

**B Associated Loan Servicing**

**[7 CFR 766.109(d)] (1) The Agency must cancel an existing deferral if the Agency approves any new primary loan servicing action.**

**(2) Loans deferred will also be serviced in accordance with §§ 766.107, 766.108 and 766.111 (paragraphs 131, 145, and 172), as appropriate.**

When a restructure is processed, the DLS transaction code 5Y – Cancel Loan Deferral will be sequenced to process before the 1M – Loan Consolidation/Reschedule/Reamortization transaction in DLS Special Servicing.

FSA-2026 rescheduled, reamortized or consolidated for the deferral will show “zero” as the installment due during the period of the deferral if the whole note is deferred. The authorized agency official will determine the amount of interest that will accrue during the deferral period and the installments using eDALR\$ and calculations provided in FSA-2026 instructions.

**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.

**\*--Note:** See subparagraph 195 C for a list of agencies that may be considered for delegation of contract management authority.--\*

**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.

**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.**

**\* \* \***

**201-210 (Reserved)**



**344 Notifying Borrower That Shared Appreciation Is Due****\*--A FSA Review of Maturing SAA's--\***

To allow for appraisals and consideration of capital improvements, the authorized agency official will begin determination of the SAA recapture amount due approximately 6 months before the maturity of SAA. The authorized agency official will contact the borrower with FSA-2544 to determine whether any improvements have been made that meet the required criteria. If there is any shared appreciation due according to paragraph 343, the borrower will be notified according to subparagraph B. If no SAA recapture is due, FLM or SFLO will wait until SAA has matured and complete the actions in subparagraph 343 E.

Use the DLS SI Other Shared Appreciation Amortization workflow to track and monitor the SAA processing to completion.

**B Borrower Notification of Shared Appreciation Due**

The authorized agency official will notify the borrower of any SAA recapture due at least 60 calendar days before the maturity date of the agreement or if any of the events described in paragraph 342 occur by use of FSA-2545. This notification will include:

- the amount of the SAA recapture due
- the date the SAA recapture is due, which is the latter of the maturity of SAA or 30 calendar days from the borrower's receipt of the letter
- how FSA calculates the amount due
- the borrower's options for repaying the shared appreciation amount, including:
  - FSA's offer to consider amortization of the amount due as NP if the borrower cannot pay the amount due
  - a list of items required for a complete application for amortization
  - the application due date
  - borrower's appeal rights.

After all appeal rights have been concluded, FSA will process a 3V – Equity Receivable transaction in DLS to establish the recapture due.

**344 Notifying Borrower That Shared Appreciation Is Due (Continued)****C Complete Application for Shared Appreciation Amortization**

The borrower has 60 calendar days from the date of FSA-2545 to submit a complete application to amortize the shared appreciation amount according to paragraph 346. If the application is submitted while the borrower is disputing the recapture amount, the final decision on the application will not be made until all dispute resolution options are concluded.

For the application for shared appreciation amortization to be complete, the borrower must submit:

- FSA-2001
- records showing the borrower's actual income, production, and expenses, including income tax returns and supporting documents for the most recent 3-year period
- verifications of debts and nonfarm income according to 3-FLP, subparagraph 42 A
- proper fee for a credit report
- any other items determined by the authorized agency official as necessary for completing FBP.

At 30 calendar days, the authorized agency official will notify the borrower the following 1 time in writing:

- of all required items that the borrower has not submitted
- the final due date by which the borrower must submit all items
- that no further reminders will be sent and that the borrower will be in default if the amount is not paid or amortized.

**D Borrower Does Not Pay Shared Appreciation Due**

The borrower is in nonmonetary default if the amount is not paid or amortized by the due date. The borrower will be notified according to Part 3 after all dispute resolution is concluded. Servicing will continue to liquidation if the recapture is not paid or amortized.

**346 Amortizing Shared Appreciation (Continued)****D Amortized Loan Interest Rate**

**[7 CFR 766.205(a)] The interest rate for Shared Appreciation Payment Agreements is the Agency's SA amortization rate.**

**E Amortized Loan Security**

The Shared Appreciation Payment Agreement must retain the same security position of the original notes identified in SAA. SED will issue a State supplement on maintaining FSA's lien position. The authorized agency official will take the best obtainable lien on all assets according to subparagraph 211 A. The Shared Appreciation Payment Agreement does not have to be fully secured if the borrower meets all requirements in subparagraph A and the borrower provides the best lien obtainable on all assets.

\*--The authorized agency official will close the Shared Appreciation Payment Agreement only after the equity recapture amount has been established by the processing of a 3 V - Equity Receivable transaction in DLS. The interest rate to be used for the amortization must be the SA rate in effect at the time of approval. The amortization will be closed according to the requirements listed in subparagraphs F through I and 3-FLP, Part 16. The amortization approval date shall not be before the date shared appreciation is due as described in subparagraph 342 A.--\*

**F Amortized Loan Processing**

The authorized agency official will mark SAA "Amortized," attach it to the new FSA-2026, and file the original promissory note and its copies according to 25-AS. The copies of the new FSA-2026 and SAA will be filed in position 2 of the borrower case file.

If a Shared Appreciation Payment Agreement becomes due because of a partial sale of security and SAA has not yet matured, the authorized agency official will attach a copy of SAA to the new FSA-2026.

The authorized agency official will process a 3O – Equity Receivable Amortization transaction in the DLS SI Other Shared Appreciation Amortization workflow to record the Shared Appreciation Payment Agreement.

**346 Amortizing Shared Appreciation (Continued)****G Amortized Loan Approval**

The authorized agency official will use FSA-2025 to notify the borrower of approval of shared appreciation agreement amortization. FSA-2026, with all covenants relating to graduation, credit elsewhere, restrictions on leasing, and FLP operating requirements removed, will be used as the loan agreement.

**H Amortized Loan Application Denied**

If amortization cannot be approved, the authorized agency official will deny the application to amortize the shared appreciation amount and servicing will continue according to Part 3 as the borrower is in nonmonetary default.

**I Servicing SA**

**[7 CFR 766.204(b)] If the borrower later becomes delinquent or financially distressed, reamortization of the Shared Appreciation Payment Agreement can be considered under subpart C (Part 3) of this part.**

If the borrower has other program loans, the Shared Appreciation Payment Agreement will be considered as a part of the overall restructure process, but can only be reamortized.

Borrowers who do not have any program loans will be notified according to subparagraph 67 A.

Shared Appreciation Payment Agreements cannot be consolidated, deferred, or written down.

\*--The DLS SI "Other Shared Appreciation (SA)" workflow shall be completed upon satisfaction of the SA amortization loan.--\*

**347 (Reserved)**

**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  
\* \* \*
- \*--there is a confirmed plan and the case is closed
- the account is settled.--\*

**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.

## 406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed

### A Removing the “SAA” Flag and Writing Off Discharged Debt

Upon receipt of the discharge order from the Bankruptcy Court, the authorized agency official will review the borrower records to determine whether FSA will cancel any discharged debt.

If all liable parties are discharged and the bankruptcy is closed, the authorized agency official will debt settle the remaining discharged debt according to RD Instruction 1956-B, Section 1956.70(b)(3).

The State Office will forward the approved RD 1956-1, with a copy of the discharge, to FLOO for processing the debt cancellation.

FLOO will remove the “SAA” flag and process the necessary transactions to write off any portion of the debt.

If some, but not all, of the liable parties were discharged of the debt, the authorized agency official will:

- consult with the regional OGC to determine what, if any, collection action can be taken against nondischarged individuals, entities, etc., and any remaining security

\* \* \*

- take all allowable collection actions in a timely manner, including collection of unsecured account balances according to Part 24
- determine, in consultation with the regional OGC, if a partial cancellation of the debt, such as canceling the discharged debt amount that is still owed by the nondischarged individuals, would be appropriate and/or financially beneficial to the Government

**Note:** If partial cancellation is appropriate, submit a request for an exception to RD Instruction 1956-B, Section 1956.57(k) to the National Office. For:

- debt settlement exception authority, see RD Instruction 1956-B, Section 1956.99
- information on submitting an exception request, see paragraph 4.
- monitor these accounts closely to ensure timely resolution.

**Note:** In cases where partial cancellation is completed, the cancellation of debt for the nondischarged individuals will be debt forgiveness for FLP program purposes, and IRS Form 1099-C will be issued for the amount of the canceled debt.

**406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed (Continued)****B Returning to Regular Servicing**

After the bankruptcy case is closed, the authorized agency official will service bankruptcy loans according to 4-FLP, subject to the confirmed reorganization plan.

**C Servicing if the Borrower Defaults on the Confirmed Reorganization Plan**

If a borrower becomes 90 calendar days past due or is in nonmonetary default after the court issued a discharge order and after the case is closed under Chapter 11, 12, or 13 of the Bankruptcy Code, the authorized agency official will notify the borrower of loan servicing options according to Part 3, unless servicing actions would be inconsistent with the confirmed bankruptcy plan or the Bankruptcy Code or FSA has referred the account to DOJ.

If the account is in nonmonetary default, OGC concurrence will be obtained before acceleration.

**407 Liquidation During Bankruptcy****A Automatic Stay Requirements**

FSA must receive relief from the automatic stay from the Court before liquidating the borrower's security. If the Court allows, and all servicing requirements are met, FSA may liquidate the security before the discharge of debt or as otherwise addressed by OGC.

**B Chapter 7 Cases After Discharge**

In Chapter 7 cases after discharge, FSA will liquidate the account as authorized by OGC if both of the following are true:

- the borrower has not reaffirmed the debt
- an Abandonment Order for the FSA security has been issued by the court or the bankruptcy case is closed.

In cases when 1 or more borrowers have received a discharge, but at least 1 borrower remains liable:

- DLS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- related entity status of the discharged individuals or entities should be updated in the DLS Customer Profile Related Entity function to reflect they are no longer a co-borrower/co-signer/guarantor
- the Chapter 7 discharge order must be maintained in the case file.

**407 Liquidation During Bankruptcy (Continued)****B Chapter 7 Cases After Discharge (Continued)**

\*--Collection of unsecured account balances will continue for all remaining liable borrowers according to Part 24.

In community property States:

- the authorized agency official will consult with the regional OGC, as needed, before pursuing separate collection action against a nondischarged borrower who is the spouse of a discharged borrower
- when collection action cannot be taken against a nondischarged spouse and the nondischarged spouse is the only remaining liable obligor for the unsecured loan balance, only the individual or entity receiving the discharge will be listed on RD 1956-1.

**Note:** Notate “Chapter 7 Discharge” after the name and attach a copy of the discharge order.--\*

**C Canceling the Debt When All Liable Parties Are Discharged**

If all liable parties are discharged and the FSA security is liquidated, FSA may cancel the debt according to RD Instruction 1956-B.

**D Notifying Borrower if Servicing Options Are Remaining**

If the authorized agency official did not previously notify the borrower’s attorney or borrower of any servicing options before or during the course of the bankruptcy proceedings, FSA will send the notices according to subparagraph 401 C before liquidating any security property.

**E When FSA Previously Notified the Borrower of Servicing Options**

If the authorized agency official previously notified the borrower’s attorney or borrower of the remaining servicing options and none remain, FSA will accelerate the account and liquidate according to Part 16 and any instructions from OGC.

**Note:** The borrower may **not** appeal the acceleration.

## 407 Liquidation During Bankruptcy (Continued)

**F Discharged Borrower Keeps FLP Loans Current**

Borrowers who have received a bankruptcy discharge may continue to pay FLP loans that are secured by real estate. In these cases, OGC may advise that foreclosing against the security is **not** possible unless the secured loans become delinquent.

The authorized agency official will:

- \*--ensure that the account remains flagged “BAP” according to subparagraph 401 B--\*
- monitor the TOP screens to ensure that all unsecured discharged loans are removed from TOP consideration according to Exhibit 15

\* \* \*

- continue monitoring the account until the secured loans are paid in full or become delinquent.

If the secured loans become delinquent, consult with the regional OGC, as needed, to determine whether any additional notices must be sent before liquidating the security.

\* \* \*

- \*--In some cases, it may be appropriate and/or in the Government’s best interest to process partial cancellation of debt. Partial cancellations require a debt settlement application and an exception to RD Instruction 1956-B.

For:

- debt settlement exception authority, see RD Instruction 1956-B, Section 1956.99 and applicable FLP directives
- information on submitting an exception request, see paragraph 4.

Partial cancellation in these situations may assist FSA to:

- comply with the bankruptcy discharge order by ensuring that no erroneous offset collection is taken on the discharged unsecured loans that are still showing as delinquent in FSA’s financial system
- reduce the amount of uncollectible debt FSA must continue to monitor and include in reports.--\*

**\*--955 Debt Settlement****A Determining Largest Collection Amount**

In cases where a debt settlement offer is submitted before referring CNC debt to cross-servicing (paragraph 953) and AWG (paragraph 954), and/or when FSA is currently receiving regular recurring offset through TOP (Exhibit 15), such as from a Federal salary, the authorized agency official will:

- determine whether the debt settlement amount offered is more than what would likely be collected through enforced collection, such as cross-servicing, AWG, and Federal salary offset
- make a decision or recommendation to debt settle based on whether enforced collection will result in a larger collection amount. Debt settlement standards and procedures will be followed according to 7 CFR Part 1956 and RD Instruction 1956-B.

In cases where a debt settlement offer is submitted after referring CNC debt to cross-servicing, see Exhibit 16, subparagraph 2 G.

**B Nonjudgment Debt**

Settlement of nonjudgment debt will be processed according to Exhibit 16, 7 CFR Part 1956, and RD Instruction 1956-B, Exhibit B.

**C Judgment Debt**

Settlement of judgment debt will be processed according to paragraphs 433 and 434.

**D Judgment and Nonjudgment Debt**

If the judgment is kept by DOJ according to paragraph 432, coordinate debt settlement of the judgment debt and nonjudgment debt with DOJ as the approval official.

If the judgment has been returned to FSA according to paragraph 433, see RD Instruction 1956-B, Exhibit B to determine the appropriate approval official.

Settlement of accounts with judgment and nonjudgment debt will be processed:

- with all documentation required by paragraphs 433 and 434 and RD Instruction 1956-B listed on, and/or attached to, RD 1956-1
- using 1 approval official.--\*

**955 Debt Settlement (Continued)****E CNC Debt Returned From Cross-Servicing**

Debt classified as CNC and returned from cross-servicing after Treasury has taken all appropriate collection actions will be canceled according to Exhibit 16. If the cancellation is the borrower's first instance of CONACT debt forgiveness, the approval official is SED according to RD Instruction 1956-B. For subsequent cancellations, SED should follow the procedures in RD Instruction 1956-B, Exhibit B.

**F Debt Recalled From Cross-Servicing**

For debt recalled from cross-servicing by the State Office and/or FLOO because it is no longer eligible for CNC classification, such as when debtors file for bankruptcy protection or are deceased, the authorized agency official will:

- ensure that transaction code 3K, class of write off code 5, is reversed
- monitor the debt until it is paid in full, debt settled, or eligible for referral back to cross-servicing
- ensure that debt settlement, if appropriate, is processed according to subparagraphs A through D.

The debt settlement approval official will be determined by 7 CFR Part 1956 and RD Instruction 1956-B, Section 1956.84 and Exhibit B.

**956 (Withdrawn--Amend. 30)**

**Account Description Flag and Code Reference**

**A General Information**

This exhibit provides guidance on using account description flags and paragraph references for each flag.

**B Agency Official Responsibilities**

Agency officials shall review the RC 540 Report monthly to determine whether a servicing action is needed and if accounts are appropriately flagged or coded. Particular attention should be given to flagged accounts since the payment status cannot always be reported correctly for reasons such as payments being held in suspense or transactions not being processed.

**C Establishing and Removing Flags**

To establish an account flag, FSA-2562 will be completed and a 5G transaction will be processed in DLS through the Manage Flags function under Customer Management. To remove an account flag, FSA-2562 will be completed and a 5H transaction will be processed in DLS.

**D Flag Priority and Reference Table**

A maximum of 4 flags can be recorded in the accounting system for each borrower subject to certain limitations. However, only 3 flags will be reported on the RC 540 Report. Flags will be reported based on priority as indicated in this table.

<b>Display Priority</b>	<b>Flag</b>	<b>Description</b>	<b>Reference</b>
1	OAC1	Office of Adjudication and Compliance Accepted	1-FLP, Paragraph 41
2	CAP	Court Action Pending	Paragraph 421
3	TPJ	Third Party Judgment (FLOO Only)	Paragraph 421
4	BAP	Bankruptcy Action Pending	Paragraph 401
5	51-S	Primary Loan Servicing	Paragraph 67
6	DSA	Debt Set-Aside	Historical Code
7	DEF	*--Deferral (FSA-2562 process in DLS)--*	Paragraph 248
8	FAP	Foreclosure Action Pending	Paragraph 567
9	SAA	Subject to Approved Adjustment (FLOO Only)	Paragraph 404
10	OAC7	Office of Adjudication and Compliance Resolved	1-FLP, Paragraph 41
11	ACL	Accelerated	Paragraph 534

\* \* \*



Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

Step	Office	Action
1 (Cntd)	State Office (Cntd)	<p style="text-align: center;"><b>Cancellation</b></p> <p>*--The account balance shall be cancelled when:</p> <ul style="list-style-type: none"> <li>• all of the loans eligible for referral to the cross-servicing program have been referred but returned for the debtor and any co-debtors</li> <li>• all payments have been received from any compromise or adjustment offers negotiated by Treasury</li> <li>• there are no collections that FSA should receive through AWG or Federal salary offset.</li> </ul> <p><b>Note:</b> Accounts on AWG or Federal salary offset returned in error by Treasury will be returned by the State Office for continued collection through FLOO, PRG.--*</p> <p>Canceling a debtor's account balance will be completed under the authorities set forth in RD Instruction 1956-B, section 1956.70, as well as section 1956.84(a) or RD Instruction 1956-B, Exhibit B, as appropriate. Treasury's return of an account from cross-servicing as uncollectable will serve as documentation that the requirements of section 1956.70 have been met. Neither a credit report nor further contact with the borrower is needed. If 1 or more of a debtor's loans have been canceled using the debt cancellation authority under the Federal Claims Collection Standards, the remaining account balance may be canceled under RD Instruction 1956-B. If a debtor has received debt forgiveness under CONACT authorities, such as a write-down through primary loan servicing, the remaining account balance may be canceled according to RD Instruction 1956-B, Exhibit B.</p>

Collection Through Cross-Servicing and Debt Settlement of Uncollectible Debt (Continued)

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

Step	Office	Action
1 (Cntd)	State Office (Cntd)	<p style="text-align: center;"><b>Cancellation</b></p> <p>SED's shall:</p> <ul style="list-style-type: none"> <li>• process the loan cancellation as appropriate using RD 1956-1</li> </ul> <p><b>*--Note:</b> Documentation that all debt has been returned from cross-servicing as uncollectible will be attached to RD 1956-1.</p> <ul style="list-style-type: none"> <li>• ensure that FSA 1956-20 was completed before CNC and is included with the settlement documentation</li> </ul> <p><b>Note:</b> No FSA 1956-10 is needed.--*</p> <ul style="list-style-type: none"> <li>• prepare a memorandum advising FLOO, PRG of the cancellation</li> <li>• FAX the signed memorandum to FLOO, PRG.</li> </ul> <p><b>Note:</b> The State Office shall obtain any necessary concurrence before canceling the debt.</p> <p>When canceling remaining loan balances owed on debts compromised by Treasury:</p> <ul style="list-style-type: none"> <li>• document the information about the compromise on RD 1956-1</li> <li>• process transaction code "3K" using class of write off code "1" for the compromised debt</li> <li>• process transaction code "3K" using class of write off code "4" for the balance of the debt returned as uncollectible</li> <li>• the effective date for all 3K transactions shall be the date SED or DAFLP signed RD 1956-1.</li> </ul>

**\*--Instructions for Using eDALR\$ (Continued)**

**4 eDALR\$ Formulas (Continued)**

**J Debt Writedown and Buyout Limitation**

eDALR\$ attempts to develop a feasible plan with a 10 percent debt service margin. All program loan servicing, excluding writedown, is considered before reducing the debt service margin. eDALR\$ will consider writedown only if all of the following conditions are met.

- The borrowers have not received the lifetime limitation for writedown or writeoff with buyout.
- At least 1 program loan is delinquent.
- The debt service margin is at zero percent.

If a feasible plan is found with writedown, eDALR\$ determines the amount of writedown necessary for the borrower to have a positive cash flow.

- If the amount of the writedown is less than or equal to \$300,000, a feasible plan has been found.
- If the amount of writedown is greater than \$300,000 and the debt service margin equals 1.00, or a feasible plan cannot be developed, eDALR\$ determines the amount of--\* writeoff, with buyout at the current market value.
- If the amount of writeoff, with buyout at the current market value, is less than or equal to \$300,000, the borrower is offered buyout.
- If the amount of writeoff, with buyout at the current market value, is greater than \$300,000, the borrower is not eligible for loan servicing or buyout and the borrower is offered debt settlement.

**Instructions for Using eDALR\$ (Continued)**

**5 Periodic Data**

**A Administrative Liquidation Costs**

The administrative liquidation costs for each loan type are provided in the following table.

<b>Loan Type</b>	<b>Calculation</b>	<b>Cost</b>
OL	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231
FO/SW/CL	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231
EM/EE	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231
RH (Used for RHF loans only.)	$(3063 \div 60 = 51.05) \times \$24.10 =$	\$1,231

**Note:** Costs were calculated using the most recently available Delphi study for the average number of hours spent on a liquidation activity by FSA employees, and used the \*--2013 GS-11/1 hourly pay rate. The Delphi study is a nationwide survey and--\* forecasting tool that records averages of times and actions on FSA accounts.

**B Legal Liquidation Costs**

Legal liquidation costs will be determined for real estate and chattel foreclosures, as well as chattel-only foreclosures. These costs estimate liquidation costs for Government attorney time for foreclosure cases in both judicial and nonjudicial foreclosure States and will vary by State. Legal liquidation cost estimates should be determined based on the costs that have been incurred during past liquidations in that State. U.S. Attorney Office costs should only be included in States where judicial foreclosures are required.

**C Determining Chattel Costs**

Chattel costs are determined based on the following:

- “Months Held in Inventory” - FSA rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless the Administrator approves chattel acquisitions and determines that chattels do have a holding period.

**Note:** If significant acquisitions occur and a chattel holding period becomes necessary, States will contact the National Office for guidance and provide detailed information about the acquisition and planned disposal of the chattel property.

- “Sales Commission Rate” - Authorized agency official will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.
- “Other Sales Costs” - These are miscellaneous costs typically incurred when selling acquired chattels. County Offices should request State Office guidance in unusual cases.
- “Rate of Change in Value” - This is a yearly percentage decrease or increase in the value of the property. The normal rate of change in value for chattels will be zero as FSA rarely acquires chattel property.

**Instructions for Using eDALR\$ (Continued)**

**5 Periodic Data (Continued)**

**F State Supplement**

SED's will issue a state supplement to:

- address the estimated costs and average holding period to be used in making calculations of net recovery value
- provide the factors to use in adjusting market value.

**Note:** The State supplement shall be issued after completing the cost analysis, but no  
\*--later than 60 calendar days after the updates to administrative liquidation costs  
have been issued.--\*

**Instructions for Using eDALR\$ (Continued)**

**5 Periodic Data (Continued)**

**G Determining Property Management Costs**

Property Management Cost is the administrative cost of managing a property while the property is being held in FSA inventory. The cost will be deducted in cases involving real property. The following worksheet is used to calculate the property management costs. Delphi data standards are used and average actions per month per the national average from the Delphi Study for required actions per property are also put into the formula. Complete the worksheet by using the average holding period of inventory property determined according to subparagraph C. An example has been completed based on national average data with an average holding period of 5.5 months.

**Determining Property Management Costs**

Step	Action
1	( <u>      .215      </u> X <u>      5.5      </u> = <u>      1.1825      </u> ) Average Actions Per Property/Month      Average Holding Period
2	( <u>      180      </u> ÷ <u>      60      </u> = <u>      3      </u> ) Delphi Data for Real Estate Loans
3	( <u>      1.1825      </u> X <u>      3      </u> X <u>      24.10      </u> = <u>      85.49      </u> ) Amount from Step 1      Amount from Step 2      *--2013 GS 11/1--* Hourly Pay
4	( <u>      648      </u> ÷ <u>      60      </u> = <u>      10.8      </u> ) Delphi Data for Inventory Actions
5	( <u>      10.8      </u> X <u>      24.10      </u> = <u>      260.28      </u> ) Amount from Step 4      *--2013 GS 11/1--* Hourly Pay
6	( <u>      85.49      </u> + <u>      260.28      </u> = <u>      346.00      </u> ) Amount from Step 3      Amount From Step 5      Administrative Costs for Inventory Property (Rounded to nearest \$)

Letter to Borrowers Who Received Unauthorized Assistance – Final Determination

\*--

5-FLP, Exhibit 31

This Exhibit may only be revised by SED.

(Use Agency Letterhead format with local return address.)

LETTER TO BORROWERS WHO RECEIVED UNAUTHORIZED ASSISTANCE –  
FINAL DETERMINATION

(For audit cases, show)

Audit Report Number. \_\_\_\_\_

Audit Finding Number \_\_\_\_\_

(Borrower's Name and Address)

Dear

After careful consideration of all information available, the Farm Service Agency (FSA) has determined that you have received unauthorized financial assistance as outlined below.

[Insert a paragraph which:

(a) Describes the unauthorized assistance; and

(b) States the amount which must be repaid (This should be the same amount stated in Exhibit 30 unless subsequent information provided by the recipient changed this amount).

Ninety days from your receipt of this letter, your account will be in non-monetary default and you will be notified of FSA's intent to accelerate and foreclose on your real estate and chattels unless you take one of the following steps. You have 30 days to notify FSA of you decision.

1. You may repay the amount stated above.
2. You may refinance or repay your entire FSA loan.
3. You may convey to FSA all of the property securing your loans, if the conveyance meets the FSA requirements.
4. You may request your loan be converted to non-program status which will probably shorten the term and raise the interest rate. A feasible plan would be required.
5. You may [insert any additional corrective action possible discussed at the meeting which complies with 5-FLP, Part 10]

Sincerely,

--\*

Letter to Borrowers Who Received Unauthorized Assistance – Final Determination (Continued)

\*--

*The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.*

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or e-mail at [program.intake@usda.gov](mailto:program.intake@usda.gov).*

*Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).*

--\*

**Notice of Acceleration of Your Debt (Non-Program) to the Farm Service Agency (FSA) and Demand for Payment of That Debt**

**Note:** Exhibit 40 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 40”.

\*--

5-FLP, Exhibit 40

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

CERTIFIED MAIL  
(Name and Address)

(Use Agency Letterhead format with local return address.)

Date

**SUBJECT: NOTICE OF ACCELERATION OF YOUR DEBT (NON-PROGRAM) TO THE FARM SERVICE AGENCY (FSA) AND DEMAND FOR PAYMENT OF THAT DEBT**

Dear (Borrower's Name):

PLEASE TAKE NOTE that the entire indebtedness due on the promissory note(s) and/or assumption agreement(s) which evidence 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. They are described as follows:

Date of Instrument

Amount

The promissory notes and assumption agreements are secured by Real Estate Mortgages, Deeds of Trust, Security Agreements, Financing Statements, etc. described as follows:

Date of Instrument

Place of Recordation (Filing)

Recorded In: Book No. Page No.

This acceleration of your indebtedness is made in accordance with the authority granted in the above-described instruments.

--\*

Notice of Acceleration of Your Debt (Non-Program) to the Farm Service Agency (FSA) and  
Demand for Payment of That Debt (Continued)

\*--

5-FLP, Exhibit 40

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

The indebtedness due is \$            unpaid principal, and \$            unpaid interest, as of 20\_\_ , plus additional interest accruing at the rate of \$        per day thereafter, plus any advances made by the U.S.A., for the protection of its security and interest accruing on any such advances. Unless full payment of your indebtedness is received within 30 days from the date of this letter, the U.S.A., will take action to foreclose the above-described security instruments and to pursue any other available remedies.

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 (*street address or P.O. Box*). (*city*). (*ZIP Code*). If you submit to the U.S.A., any payment insufficient to pay the entire indebtedness or insufficient to comply with any arrangements agreed to between FSA and yourself, that payment WILL NOT CANCEL the effect of this notice. If insufficient payments are received and credited to your account, no waiver or prejudice of any rights which the U.S.A., may have for breach of any promissory note or covenant in the security instrument(s) will result and FSA may proceed as though no such payment had been made.

[THE ABOVE-DESCRIBED SECURITY INSTRUMENTS PROVIDE THAT THE U.S.A. MAY FORECLOSE WITHOUT COURT ACTION BY SELLING THE PROPERTY AT PUBLIC SALE AFTER            . THE GOVERNMENT INTENDS TO SELL THE PROPERTY IN THIS MANNER. NO FURTHER NOTICE IS REQUIRED TO BE GIVEN YOU CONCERNING THIS FORECLOSURE.] (*This paragraph will be omitted in States with judicial foreclosure or where it conflicts with State laws.*)

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.

If you think FSA is in error in accelerating your account and proceeding with foreclosure, you may submit evidence within 15 calendar days to the undersigned documenting why your account is not in default. Your request will be forwarded to the next level of authority within FSA for consideration. This review will be based solely upon the record including your case file. Applicable statutes and regulations and the documentation you submit to support your position will be considered by the next level of authority.

You may apply for debt settlement and retain the property if you pay the current market value along with an additional amount you are able to pay.

You have the option of selling your property. This will provide you with an opportunity to recover any equity you may have in the property. NOTE: FSA regulations allow you to sell your property at its current market value regardless of the debt. The buyer may be able to obtain FSA financing on program or non-program terms.

--\*

**Notice of Acceleration of Your Debt (Non-Program) to the Farm Service Agency (FSA) and  
Demand for Payment of That Debt (Continued)**

\*--

**5-FLP, Exhibit 40**

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

United States of America by

*(District Director or State Approval Official)*

Farm Service Agency, United States Department of Agriculture

--\*



Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non-Program)

**Note:** Exhibit 41 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 41”.

\*--

5-FLP, Exhibit 41

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

CERTIFIED MAIL  
(Name and Address)

(Use Agency Letterhead format with local return address.)

Date:

(Name and Address)

**SUBJECT: NOTICE OF ACCELERATION OF YOUR  
FARM SERVICE AGENCY (FSA) ACCOUNT (NON-PROGRAM)**

Dear (Borrower's Name):

PLEASE TAKE NOTE that the Farm Service Agency (FSA) intends to enforce its Real Estate Mortgages, Deeds of Trust, Security Agreements, Financing Statements, etc. given or assumed by you as security for the following-described promissory notes and assumption agreements and declares the indebtedness immediately due and payable:

Date of Instrument

Amount

The security instruments referred to above are described as follows:

Date of Instrument

Place of Recordation (Filing)

Recorded In: Book No. Page No.

The decision to foreclose is made in accordance with the authority granted in the above-described security instruments for the following reasons:

The balance of the account is \$ \_\_\_\_\_ unpaid principal, and \$ \_\_\_\_\_ unpaid interest, as of \_\_\_\_\_, 20\_\_\_\_, plus additional interest accruing at the rate of \$ \_\_\_\_\_ per day thereafter, plus any advances to be made by the United States for the protection of its security, and the interest accruing on any such advances. Pursuant to the terms of the loan instruments FSA is now exercising its option to declare this debt immediately due and payable, although FSA has no intention of seeking to recover any part of this debt from assets you have other than the property which is security for the debt.

--\*

Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non-Program) (Continued)

\*--

5-FLP, Exhibit 41

The security instruments executed by you in favor of FSA are not affected by a discharge in bankruptcy and the security can still be foreclosed upon or liquidated to satisfy the secured debt, although a discharge under the Bankruptcy Code does render any debt discharged unenforceable as your personal obligation. In other words, if FSA proceeds with foreclosure or liquidation, all property which is security would be sold. If the proceeds from that sale are not sufficient to payoff the debt, FSA cannot seek a personal judgment against you for any deficiency. This letter is not intended as an act to collect or recover any debt from you for which your personal obligation has been discharged pursuant to 11 U.S.C. §524 but rather it is intended to collect or recover any such debt from the property which is security for the loans made to you.

Unless full payment of the secured debt is received within 30 days from the date of this letter, the U.S.A., will take action to foreclose/liquidate under the authority granted in the above-described instruments. 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 *(street address or P.O. Box) (city), (ZIP Code)*. If there is submitted to the U.S.A., 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 insufficient payments are received and credited to your account, no waiver or prejudice of any rights which the U.S.A., may have for breach of any promissory note or covenant in the security instruments will result and FSA may proceed as though no such payments had been made.

[THE ABOVE-DESCRIBED SECURITY INSTRUMENTS PROVIDE THAT THE U.S.A., MAY FORECLOSE WITHOUT COURT ACTION BY SELLING THE PROPERTY AT PUBLIC SALE AFTER . THE GOVERNMENT INTENDS TO SELL THE PROPERTY IN THIS MANNER. NO FURTHER NOTICE IS REQUIRED TO BE GIVEN YOU CONCERNING THIS FORECLOSURE.] *(This paragraph will be omitted in States with judicial foreclosure or where it conflicts with State law.)*

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.

If you think FSA is in error in accelerating the account and proceeding with foreclosure, you may submit evidence within 15 calendar days to the undersigned documenting why the account is not in default. Your request be forwarded to the next level of authority within FSA for consideration. This review will be based solely upon the record including your case file. Applicable statutes and regulations and the documentation you submit to support your position will be considered by the next level of authority.

You have the option of selling your property. This will provide you with an opportunity to recover any equity you may have in the property.

NOTE: FSA regulations allow you to sell your property at its current market value regardless of the debt. The buyer may be able to obtain FSA financing on program or non-program terms.

--\*

**Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non-Program) (Continued)**

\*--

**5-FLP, Exhibit 41**

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

United States of America by

*(District Director or State Approval Official)*

Farm Service Agency, United States Department of Agriculture

--\*

