

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 32

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reason for Amendment

Exhibit 2 has been amended to update the definition of “debt forgiveness” to comply with changes made by the 2014 Farm Bill.

Page Control Chart		
TC	Text	Exhibit
		2, pages 7-10

Definitions of Terms Used in This Handbook (Continued)**CONACT or CONACT Property**

CONACT or CONACT property is property that secures a loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 USC 1921 et seq.). It also includes property that secures other FLP loans.

Confirmed Plan of Reorganization

A confirmed plan of reorganization involves a bankruptcy court approved plan, which outlines the debtor's security interest, repayment schedules and terms of performance.

Conservation Contract

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding Agency debt.

Conservation Contract Review Team

Conservation Contract review team is comprised by the appropriate offices of FSA, the Natural Resources Conservation Service, U.S. Fish and Wildlife Service, State Fish and Wildlife Agencies, Conservation Districts, National Park Service, Forest Service, State Historic Preservation Officer, State Conservation Agencies, State Environmental Protection Agency, State Natural Resource Agencies, adjacent public landowner, and any other entity that may have an interest and qualifies to be a management authority for a proposed conservation contract.

Consolidation

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Conveyance

Conveyance is the transfer of ownership in property to a third party.

Credit Sale

Credit sale is a sale of FLP inventory property for which FSA provides financing to the purchaser.

Definitions of Terms Used in This Handbook (Continued)

Criminal Action

Criminal action is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes. Such violations may include, but are not limited to unauthorized sale of security; purchase of security with intent to defraud and without payment of the purchase price to the Agency; falsification of assets or liabilities in loan applications; application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose; using funds for an unauthorized purpose and then making false statements regarding their use; by scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized disposition of security or other illegal actions; or any other false statements or representations relating to Agency benefits.

Cross-Servicing

Cross-servicing is the centralized collection of nontax Federal debt by the Department of Treasury or by Treasury's PCA's according to:

- 7 CFR Part 3, Subpart C
- 31 CFR 285.12
- 31 CFR 901.1(e).

Current Market Value Buyout

Current market value buyout is the termination of a borrower's loan obligations to the Agency in exchange for payment of the current appraised value of the borrower's security property and nonessential assets, less any prior liens.

Custodial Property

Custodial property is property and improvements owned by a borrower that serve as security for an Agency loan that the borrower has abandoned, and that the Agency takes into its control to protect the Government's interest.

Debt Forgiveness

Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.

--(1) Debt forgiveness may be through:--

- (i) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;
- (ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or
- (iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.

Definitions of Terms Used in This Handbook (Continued)**Debt Forgiveness (Continued)****(2) Debt forgiveness does not include:**

- (i) Debt reduction through a conservation contract;**
- (ii) Any write down provided as part of the resolution of a discrimination complaint against the Agency;**
- (iii) Prior debt forgiveness that has been repaid in its entirety;**

***--(iv) Consolidation, rescheduling, reamortization, or deferral of a loan; or**

- (v) Forgiveness of YL debt, due to circumstances beyond the borrower's control.**

The Agency will use the criteria in 7 CFR 766.104(a) (1) to determine if the circumstances were beyond the borrower's control.--*

Debt Settlement

Debt settlement is a compromise, adjustment, or cancellation of an Agency debt.

Debt Service Margin

Debt service margin is the difference between all of the borrower's expected expenditures in a planning period (including farm operating expenses, capital expenses, essential family living expenses, and debt payments) and the borrower's projected funds available to pay all expenses and payments.

Debt Writedown

Debt writedown is the reduction of the borrower's debt to that amount the Agency determines to be collectible based on an analysis of the security value and the borrower's ability to pay.

Debtor

Debtor is a borrower of funds under any Agency programs. This term includes a co-signor, guarantor, and person or entity that initially obtained or assumed a loan.

Debtor-in-Possession

A debtor-in-possession is a Chapter 11 or Chapter 12 debtor who remains in control of the business and in possession of the security during the course of the bankruptcy.

Definitions of Terms Used in This Handbook (Continued)**Deed**

A deed is a signed instrument legally transferring real estate to another.

Default

Default is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

Deferral

Deferral is a postponement of the payment of interest or principal or both. For direct loans, both principal and interest may be deferred in whole or in part according to Part 4, Section 3.

Deficiency Judgment

A deficiency judgment is a personal judgment against a debtor for the amount remaining due to FSA after foreclosure or liquidation.

Delinquent Borrower

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

Disaster Set-Aside

Disaster set-aside is the deferral of payment of an annual loan installment to the Agency to the end of the loan term in accordance with part 766, subpart B, of this chapter.

Discharge

A discharge is a court order, which relieves the debtor's obligation to pay the creditor any amounts unless already accounted for in a bankruptcy plan.

Dismissal

A dismissal is a determination by the court that the bankruptcy petition is not necessary or the debtor fails to perform according to the established plan. It is the creditor's or Trustee's responsibility to bring nonperformance of a plan to the court's attention. When a bankruptcy is dismissed, the creditors' original security positions, payment schedules, and amounts owed are re-established, as if bankruptcy was never filed.