

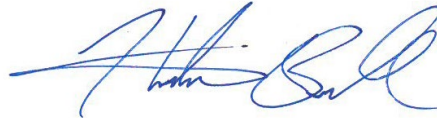
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 59

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 4 B has been amended to clarify who may submit an Administrator’s Exception request and correct the email address.

Subparagraphs 4 B, 104 A, 249 E, 348 A, 516 A, and paragraph 581 have been amended to update references to “personal property.”

Subparagraphs 7 A and B have been amended to remove references to debarment and suspension while FSA makes adjustments to the process.

Paragraph 9 has been added to provide instructions for the use of LexisNexis.

Subparagraphs 44 A and 53 A have been amended to add the requirement that the complete application date be added to the FBP for DSA and DBSA due to DLS limitations.

Subparagraphs 45 A and 54 A have been amended to clarify that a current balance sheet is required.

Subparagraph 67 B has been amended to provide changes made to the DLS-SS Flowcharts and to provide the SharePoint address for written flowcharts.

Subparagraph 104 A has been amended to provide clarification on when real estate and non-essential asset appraisals may be waived and when net recovery value constants will not be entered into eDALR\$.

Subparagraphs 133 D, 146 D, 196 B, and 284 G have been amended to allow the use of FSA-2071 to provide documents to borrowers.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 145 B has been amended to add a note clarifying the allowable restructured term of Down Payment loans.

Subparagraphs 194 A, 462 A, and 463 A have been amended to provide where to find examples of FSA-2061.

Subparagraphs 499 A and 519 A have been amended to require completion of an FBP credit action to process voluntary conveyances.

Subparagraph 533 B has been amended to clarify completion of FSA-2581.

Subparagraphs 551 A and 581 D have been amended to ensure adequate market research is completed for involuntary liquidations.

Subparagraph 551 D has been amended to clarify processing the 3 percent DOJ fee on foreclosure and/or other collection actions.

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*--See 1-FLP, subparagraphs 3 E and 3 H.

F State-Created Forms

See 1-FLP, subparagraphs 3 F and 3 H.

G Other Sources of Forms

See 1-FLP, subparagraph 3 G.--*

4 Agency Exception Authority

A General

[7 CFR 766.401, 767.251] On an individual case basis, the Agency may consider granting an exception to any regulatory (or 5-FLP) requirement or policy of this part if:

(a) The exception is not inconsistent with the authorizing statute or other applicable law; and

(b) The Agency's financial interest would be adversely affected by acting in accordance with published regulations or policies and granting the exception would resolve or eliminate the adverse effect upon its financial interest.

Authority for granting approval of an exception is held only by the Administrator and DAFLP.

A decision as to whether an exception request will be submitted will be at FSA's discretion and is not appealable.

A request for an exception to program regulations should not be pursued under normal servicing conditions. FSA considers requests submitted under extraordinary circumstances only.

B Submitting Exception Requests

*--Only the SED or Acting SED have the authority to submit an exception request by e-mail to DAFLP at **SM.FSA.DCWa2.AdminException** or AdminException@usda.gov. The--* e-mail subject should read "Administrator's Exception to (cite 5-FLP subparagraph) – (Borrower's Name and State)". State Office FLP staff must be involved in the development of the Exception Request. An attachment must fully describe the status of the account including:

- a brief background on the case
- total outstanding FSA indebtedness, loan types, and amounts
- current status of the account

Note: If it is delinquent, where is it in Primary Loan Servicing?

- *--type of security (personal property or real estate) and estimated value--*
- prior liens
- proposed plan of action that warrants the exception request
- what procedure is to be waived

6 ECOA Requirements for Actions Involving Real Estate Security

A Release of Real Estate Appraisals

Equal Credit Opportunity Act (ECOA) requires the Agency to provide a copy of a written real estate appraisal or valuation performed on any real estate that is pledged as security as part of an application for FSA assistance. For servicing actions authorized by this handbook that involve FSA completing any real estate valuation, local offices will comply with the requirements of 1-FLP paragraph 148 to provide a copy of the valuation to the borrower, when applicable.

7 Non-Procurement Debarment and Suspension

A Covered Transactions

* * *

--Information will be provided once automation has been developed.--

B System for Award Management (SAM) Exclusions

* * *

--Information will be provided once automation has been developed.--

8 (Reserved)

***--9 LexisNexis**

A Use of Lexis Nexis

LexisNexis provides computer-assisted legal, business, and risk management research services. Its Accurint system provides efficient search technology to locate real estate transactions and ownership data; lien, judgment, and bankruptcy records; as well as professional license information and historical addresses. This information is useful for eDALR\$ and judgements.

See 7-FLP, subparagraph 405 F for instruction on the use of LexisNexis.--*

10-40 (Reserved)

43 DSA Applications

A Requests for DSA

[7 CFR 766.54(a)] (1) A borrower must submit a request for DSA in writing within eight months from the date the natural disaster was designated.

(2) All borrowers must sign the DSA request.

*** * ***

B Required Financial Information

[7 CFR 766.54(b)] (1) The borrower must submit actual production, income, and expense records for the production cycle in which the disaster occurred unless the Agency already has this information.

--(2) The borrower must provide any additional information requested by the Agency.--

The borrower must also provide any documentation required to support the farm operating plan as required in paragraph 45, such as 3 years of production, income and expense records.

Records provided by the borrower will be retained in the case file.

44 Application Tracking

A Tracking DSA Requests

The authorized agency official must date stamp the borrower's DSA request on the date FSA received it. The application will be inputted and tracked through to completion in DLS under Security Instruments Other Workflows.

The authorized agency official **must**, at a minimum, record the following in DLS:

- purpose type
- request date
- final disposition
- final disposition date
- disaster designation code
- set-aside addendum date
- installment date
- disaster set-aside amount
- amount approved
- *--complete application date.

Note: Due to current limitations in DLS, the complete application date will be entered in the Special Servicing Eligibility comment box of the FBP.--*

45 DSA Eligibility and Limitations

A Borrower Eligibility

[7 CFR 766.52(a)] The borrower must meet all of the following requirements to be eligible for a DSA:

(1) The borrower must have operated the farm in a county designated or declared a disaster area or a contiguous county at the time of the disaster (see operator definition in Exhibit 2). Farmers who have rented out their land base for cash are not operating the farm.

(2) The borrower must have acted in good faith, and the borrower's inability to make the upcoming scheduled loan payments must be for reasons not within the borrower's control.

(3) The borrower cannot have more than one installment set aside on each loan.

(4) As a direct result of the natural disaster, the borrower does not have sufficient income available to pay all family living and farm operating expenses, other creditors and debts to the Agency. (This determination must be fully explained in the FBP credit presentation). This determination will be based on:

(i) The borrower's actual production, income and expense records for the year the natural disaster occurred;

(ii) Any other records required by the official;

(iii) Compensation received for losses; and

(iv) Increased expenses incurred because of the natural disaster.

(5) For the next production cycle, the borrower must develop a feasible plan showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses, and meet scheduled payments on all debts, including FLP debts. The borrower must provide any documentation required to support the farm operating plan.

--Note: A current balance sheet is required to develop the projection.--

(6) The borrower must not be in non-monetary default.

(7) The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM).

(8) The borrower must not become 165 days past due before the appropriate Agency DSA documents are executed.

The borrowers must remain eligible until FSA-2501 is executed.

45 DSA Eligibility and Limitations (Continued)

B Loan Eligibility

[7 CFR 766.52(b)] (1) Any FLP loan to be considered for DSA must have been outstanding at the time the natural disaster occurred.

(2) All of the borrower's FLP program and Non-program loans must be current after the Agency completes a DSA of the scheduled installment.

***--(3) All FLP loans must be current or less than 150 days past due at the time the application for DSA is complete.**

If the borrower becomes more than 90 days past due and the DSA has not been completed through the execution of the FSA-2501, the borrower will be immediately provided servicing notifications according to paragraph 66 and initialized into DLS Special Servicing. If a borrower has not provided a complete application for DSA or loan servicing within 150 days past due, the borrower will be notified of the agency's intention to accelerate in accordance with paragraph 85.

Note: YL's, NP's, and loans that are only partially advanced are **not** eligible for servicing under this part.--*

Example: On July 1, 2022, a borrower closes an FO loan for \$50,000 to expand an existing dairy barn, however because of delays, only \$1,000 has been advanced. In December severe storms damaged the existing barn and now the borrower is in dispute with the insurance company. The borrower is unable to make the July 1, 2023, installment of \$1,990 and has requested DSA. Because not all funds are advanced, the loan is not eligible for DSA. The borrower can request PLS as current but financially distressed.

(4) The Agency has not accelerated or applied any special servicing action under this part to the loan since the natural disaster occurred.

(5) For any loan that will receive a DSA, the remaining term of the loan must equal or exceed 2 years from the due date of the installment set-aside.

***--(6) The loan must not have a DBSA or DSA in place.**

The loans must remain eligible until FSA-2501 is executed.

Note: The limitation for DSA includes COVID DSA granted that has an outstanding balance.--*

53 DBSA Application Tracking**A Tracking DBSA Requests**

The authorized agency official must date stamp the borrower's DBSA request as of the date FSA received it. The application will be entered in and tracked through completion in DLS under Security Instruments Other Workflows.

The authorized agency official **must**, at a minimum, record the following in DLS:

- purpose type
- request date
- final disposition
- final disposition date
- set-aside addendum date
- installment date
- set-aside amount
- amount approved
- *--complete application date.

Note: Due to current limitations in DLS, the complete application date will be entered in the Special Servicing Eligibility comment box of the FBP.--*

54 DBSA Eligibility and Limitations

A Borrower Eligibility

[7 CFR 766.452(a)] The borrower must meet all of the following requirements to be eligible for DBSA:

- (1) The borrower must currently be operating the farm. Farmers who have rented out their land base for cash are not operating the farm. (see operator definition in Exhibit 2).**
- (2) The borrower must have acted in good faith, and the borrower's inability to make the current or upcoming scheduled loan payments must be for reasons not within the borrower's control.**
- (3) The borrower cannot have more than one DBSA on each loan.**
- (4) The borrower does not have sufficient income available to pay all family living and farm operating expenses, other creditors, and debts to the Agency. This determination will be based on:
 - (i) The borrower's actual production, income and expense records; and**
 - (ii) Any other records required by the Agency;****
- (5) For the next production cycle, the borrower must develop a feasible plan showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses, and meet scheduled payments on all debts, including Agency debts. The borrower must provide documentation required to support the farm operating plan.**

***--Note:** A current balance sheet is required to develop the projection.--*

- (6) The borrower must not be in non-monetary default.**
- (7) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to 7 CFR part 718 (1-CM).**
- (8) The borrower must not become 165 days past due before the appropriate Agency DBSA documents are executed.**

The borrowers must remain eligible until Form FSA-2501 is executed.--*

67 Providing Loan Servicing Notification Package (Continued)

B Using DLS Special Servicing and PLS Flag

The authorized agency official must track all notification and servicing activity through DLS Special Servicing and FSA-2580.

PLS flag will be placed only on accounts sent FSA-2510 or FSA-2514.

To establish an account flag, a 5G transaction will be processed in DLS through the Manage Flags function under Customer Management. If the servicing office does not have permissions to input the necessary flag, FSA-2562 will be completed and submitted to the appropriate office requesting entry of the transaction in DLS.

*--The following changes were made to the DLS-SS Flowcharts.

- Chart 13 has been added to implement the tracking and servicing of SAA. This chart will be a workflow created to monitor an SAA after an agreement is executed in conjunction with closing a primary loan servicing action. This chart and workflow process will not initialize a new category.
- Chart 23 has been added to implement the new 5-FLP, paragraph 129 and 7 CFR 766.120 process for extending maturity dates of balloon payments using an addendum to the promissory note. This chart and workflow process will initialize a new category.
- Chart 24 has been added to implement the 5-FLP, paragraph 388 and 7 CFR 768.1 process for considering and providing equitable relief. This chart and workflow process can be initialized as a new category or can be added manually as an additional path if the need for equitable relief is discovered during an existing servicing action.
- Charts 16 and 17 are obsolete and have been removed.

For State and County Office use the flow charts in the FLP Software User Guides section of the DAFLP SharePoint page at <https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/software-manuals.aspx>.--*

67 Providing Loan Servicing Notification Package (Continued)

C Methods of Notifying Borrowers

[7 CFR 766.101(c)] Notices to delinquent borrowers or borrowers in non-monetary default will be sent by certified mail to the last known address of the borrower. If the certified mail is not accepted, the notice will be sent immediately by first class mail to the last known address. The appropriate response time will begin 3 days following the date of the first class mailing. For all other borrowers requesting the notices, the notices will be sent by regular mail or hand delivered.

If the certified mail return receipt and/or notification package is not returned within 15 days, the agency official will use USPS online tracking to determine if the borrower has received the notification package. If the online record indicates:

- that no delivery attempt was made, the borrower will be notified again using certified mail
- that the notification was delivered or accepted by the borrower, the indicated date will serve as the accepted date
- at least one delivery attempt has been made with no indication as to whether the borrower accepted mail, the notification package will be treated as not accepted and sent again by regular mail.

If the notification package is returned “address unknown”, the authorized agency official will verify the borrower’s current postal address using FSA-137 according to 5-AS, paragraph 77. If no new address can be obtained, the authorized agency official will continue to use the last known address.

Once the address verification process is completed, the authorized agency official will:

- record the date the original package was returned and the date the contents are re-mailed on the original envelope and file the original envelope in position 4 of the case file
- resend the contents of the loan servicing notification package in a new sealed envelope.

The timeframe for a complete application will be determined according to subparagraph 83 B.

67 Providing Loan Servicing Notification Package (Continued)**D Requests for Copies of Regulations**

A borrower may request copies of regulations at any time. When asked, the authorized agency official must provide a borrower 1 free copy of a regulation within 10 workdays of the request. See 2-INFO for further guidance.

68 Other Loan Servicing Notification Requirements**A Notifying All Parties on a Note of Loan Servicing**

For PLS purposes, all parties who signed the promissory note, including cosigners, are considered borrowers and are liable for all the debt.

When a borrower subject to loan servicing notification is:

- an entity comprised of 2 or more individuals, the authorized agency official will provide a loan servicing notification package to the entity and each party who signed the promissory note or pledged security for the loan
- a married couple at the same address, the authorized agency official will provide them 1 loan servicing notification package that is addressed to both parties
- a married or divorced couple at different addresses, the authorized agency official will provide a loan servicing notification package to each person at their own address.

Note: A divorced spouse who has left an operation may seek a release of liability. See paragraph 84 for more information on releasing divorced spouses from liability.

All required subsequent notifications are sent in the same manner.

Third parties who pledged property as security will be sent Exhibit 13 whenever FSA-2510 or FSA-2514 are sent to the borrower. A copy of the FSA-2510 or FSA-2514 sent to the primary borrower will be included and marked “Courtesy Copy”.

Borrowers with YL’s will be sent Exhibit 14, with the appropriate PLS notification to explain the reason for the notification and their servicing options.

B Internal Administrative Offset Notification

The authorized agency official will send an offset notification according to 7-FLP, Part 3.

C TOP Referral

Delinquent loans will be referred to TOP according to 7-FLP, Part 4.

69-80 (Reserved)

104 Appraisals

A Current Appraisals

[7 CFR 766.105(c)] **The Agency will obtain an appraisal on:**

[7 CFR 766.105(c)(1)] **All Agency security, non-essential assets, and real property unencumbered by the Agency that does not meet the criteria established in § 766.112(b) (subparagraph 211 C), when:**

- (i) **A write-down is required to develop a feasible plan;**
- (ii) **The borrower will be offered current market value buyout.**

Note: When security for the borrower's account is cross-collateralized, SED may waive the appraisal requirement for real estate and/or non-essential assets for current market value buyout, when the personal property appraised value exceeds the borrower's total debt and only when no write-down will be involved. This authority may be re-delegated to FLC, FLS, and/or DD.

[7 CFR 766.105(c)(2)] **The borrower's non-essential assets when their net recovery value may be adequate to bring the delinquent loans current.**

If preliminary eDALR\$ calculations, with no security entered, show that a write-down or current market value buyout may be required:

- all security will need to be appraised for write-down or current market value calculations
- nonessential assets will need to be appraised as their value is required for eDALR\$ calculations
- if FSA has real estate as security and the preliminary eDALR\$ report shows a possible write-down, real estate security projected to be obtained as a best lien obtainable will need to be appraised as the value is required for shared appreciation agreement calculations.

To save appraisal funds, SED may issue a State supplement on obtaining appraisals in stages, such as waiting on the appraisal of essential, unencumbered real estate to determine whether a write-down and FSA-2543 will actually be required.

***--Note:** An appraisal of real estate security will not be necessary and its value will not be entered as net recovery property in eDALR\$ if either of the following conditions exist:

- current market value buyout is offered and the personal property value is greater than the outstanding balance of the borrower's loans
- the feasible plan does not include write-down.

See 1-FLP, Part 6 for additional information on appraisals.

105-115 (Reserved)

--133 Interest Rates--**A Consolidated and Rescheduled Loan Interest Rate**

[7 CFR 766.107(d)] The interest rate of consolidated and rescheduled loans will be as follows:

(1) The interest rate for loans made at the regular interest rate will be the lesser of:

(i) The lowest interest rate for that type of loan on the date a complete servicing application was received;

(ii) The lowest interest rate for that type of loan on the date of restructure; or

(iii) The lowest original loan note rate on any of the original notes being consolidated and rescheduled.

(2) The interest rate for loans made at the limited resource interest rate will be the lesser of:

(i) The limited resource interest rate for that type of loan on the date a complete servicing application was received;

(ii) The limited resource interest rate for that type of loan on the date of restructure; or

(iii) The lowest original loan note rate on any of the original notes being consolidated and rescheduled.

(3) At the time of consolidation and rescheduling, the Agency may reduce the interest rate to a limited resource rate, if available, if:

(i) The borrower meets the requirements for the limited resource interest rate, and

(ii) A feasible plan cannot be developed at the regular interest rate and maximum terms permitted in this section.

--(4) If FSA reschedules a loan at the limited resource rate, the resulting FSA-2026 will be marked accordingly and will be subject to limited resource reviews under 4-FLP, Part 3.--

133 Interest Rates (Continued)**A Consolidated and Rescheduled Loan Interest Rate (Continued)**

To obtain the original loan note interest rates, the authorized agency official will refer to the borrower's original promissory notes or, for accounts that have been reorganized in bankruptcy, the confirmed plan. See 1-FLP, Exhibit 17 for the current loan program interest rates.

If FSA reschedules a loan at the LR rate, the resulting FSA-2026 will be marked accordingly, and will be subject to annual LR review according to 4-FLP, Part 3.

YL's are **not** eligible for the LR interest rate.

B Capitalizing Accrued Interest and Adding Protective Advances to the Loan Principal

[7 CFR 766.107(e)] (1) The Agency capitalizes the amount of outstanding accrued interest on the loan at the time of consolidation and rescheduling.

(2) The Agency adds protective advances for the payment of real estate taxes to the principal balance at the time of consolidation and rescheduling.

(3) The borrower must resolve all other protective advances not capitalized prior to closing the servicing actions.

C Installments

[7 CFR 766.107(f)] If there are no deferred installments, the first installment payment under the consolidation and rescheduling will be at least equal to the interest amount which will accrue on the new principal between the date the promissory note is executed and the next installment due date.

D Preparing and Disposing of Promissory Notes

The new FSA-2026 amounts and installments will match the eDALR\$ output report. The existing promissory note will be marked rescheduled and stapled to the new FSA-2026 that will be filed in the fireproof safe. A copy of the new FSA-2026 will be placed in the case file and attached to the copy of the existing promissory note and another given to the borrower.

--Note: FSA-2071 may be utilized to provide documents to the borrower.--

134-144 (Reserved)

Section 2 Reamortization

145 Eligibility and Loan Terms

A Loans Eligible for Reamortization

[7 CFR 766.108(a)] The Agency may reamortize loans made for real estate purposes, including FO, SW, RL, SA, EE, RHF, CL and EM if:

- (1) The borrower meets the loan servicing eligibility requirements listed in § 766.104 (paragraph 102);**
- (2) Reamortization will bring the borrower's account current or prevent the borrower from becoming delinquent;**
- (3) The Agency determines that reamortization will assist the borrower to repay the loan;**
- (4) The Agency has not referred the borrower's account to OGC or the U.S. Attorney, and the Agency does not plan to refer the account to either of these two offices in the near future;**
- (5) The borrower is in compliance with the Highly Erodible Land and Wetland Conservation requirements of 7 CFR part 12, if applicable; and**
- (6) The loan is not currently deferred, as described in § 766.109 (Section 3), or set-aside, as described in subpart B (Part 2) of this part. The Agency may reamortize loans upon cancellation of the deferral or DSA.**

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

When a restructure is processed, DLS transaction codes 5T – Cancel Disaster Set-Aside and 5Y – Cancel Loan Deferral will be sequenced to process before the 1M – Loan Reamortization transaction in DLS Special Servicing.

--PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.--

145 Eligibility and Loan Terms (Continued)

B Loan Terms

[7 CFR 766.108(b)] (1) Except as provided in paragraph (b)(2), the Agency will reamortize loans within the remaining term of the original loan or assumption agreement unless a feasible plan cannot be developed or debt forgiveness will be required to develop a feasible plan.

(2) If the Agency extends the loan term, the repayment period from the original loan date may not exceed the maximum number of years for the type of loan being reamortized as set forth below, or the useful life of the security, whichever is less.

(i) FO, SW, RL, EE real estate type, and EM loans made for real estate purposes may not exceed 40 years from the date of the original note or assumption agreement.

--Note: The term of a down payment loan may not exceed 40 years from the date of the original note or assumption agreement.--

(ii) EE real estate-type loans secured by chattels only may not exceed 20 years from the date of the original note or assumption agreement.

(iii) RHF may not exceed 33 years from the date of the original note or assumption agreement.

(iv) SA loans may not exceed 25 years from the date of the original Shared Appreciation note.

(v) CLs may not exceed 20 years from the date of the original note or assumption agreement.

146 Interest Rates

A Reamortized Loan Interest Rate

[7 CFR 766.108(c)] The interest rate will be as follows:

[7 CFR 766.108(c)] (1) The interest rate for loans made at the regular interest rate will be the lesser of:

- (i) The lowest interest rate for that type of loan on the date a complete servicing application was received;**
- (ii) The lowest interest rate for that type of loan on the date of restructure; or**
- (iii) The original loan note rate of the note being reamortized.**

[7 CFR 766.108(c)] (2) The interest rate for loans made at the limited resource interest rate will be the lesser of:

- (i) The limited resource interest rate for that type of loan on the date a complete servicing application was received;**
- (ii) The limited resource interest rate for that type of loan on the date of restructure; or**
- (iii) The original loan note rate of the note being reamortized.**

[7 CFR 766.108(c)] (3) At the time of reamortization, the Agency may reduce the interest rate to a limited resource rate, if available, if:

- (i) The borrower meets the requirements for the limited resource interest rate; and**
- (ii) A feasible plan cannot be developed at the regular interest rate and maximum terms permitted in this section.**

*** * ***

To obtain the original loan note interest rates, the authorized agency official will refer to the borrower's original promissory notes or, for accounts that have been reorganized in bankruptcy, the confirmed plan. See 1-FLP, Exhibit 17 for the current loan program interest rates.

--If FSA reamortizes a loan at the LR rate, the resulting FSA-2026 will be marked accordingly, and will be subject to LR reviews under 4-FLP, Part 3.--

[7 CFR 766.108(c)] (5) SA payment agreements will be reamortized at the current SA amortization rate in effect on the date of approval or the rate on the original payment agreement, whichever is less.

146 Interest Rates (Continued)**B Capitalizing Accrued Interest and Adding Protective Advances to the Loan Principal**

[7 CFR 766.108(d)] (1) The Agency capitalizes the amount of outstanding accrued interest on the loan at the time of reamortization.

(2) The Agency adds protective advances for the payment of real estate taxes to the principal balance at the time of reamortization.

(3) The borrower must resolve all other protective advances not capitalized prior to closing the reamortization.

C Installments

[7 CFR 766.108(e)] If there are no deferred installments, the first installment payment under the reamortization will be at least equal to the interest amount which will accrue on the new principal between the date the promissory note is executed and the next installment due date.

D Preparing FSA-2026's

The new FSA-2026 amounts and installments will match the eDALR\$ output report. The existing promissory note will be marked reamortized and stapled to the new FSA-2026 that will be filed in the fireproof safe. A copy of the new FSA-2026 will be placed in the case file and attached to the copy of the existing promissory note and another given to the borrower.

--Note: FSA-2071 may be utilized to provide documents to the borrower.--

147-158 (Reserved)

193 Amount of Debt Canceled by Conservation Contract (Continued)**C Debt Forgiveness**

The debt reduced through FSA-2535 is not considered debt forgiveness under CONACT.

194 Processing Conservation Contract Request**A Applying for Conservation Contract**

All requests for conservation contracts must be tracked using DLS Special Servicing.

A borrower who is delinquent, financially distressed, or in non-monetary default and is interested in receiving loan servicing, including a conservation contract, must submit:

- a loan servicing application package according to paragraphs 81 and 82
- an aerial photo or map of the borrower's land that delineates the proposed conservation area according to subparagraph 82 B.

A current borrower who is not financially distressed may request a conservation contract by submitting:

- FSA-2061

*--**Note:** See 4-FLP, Exhibit 25.5 for examples of how to complete FSA-2061.

- actual financial performance for the past year (last year's tax return or last year's income and expense records are acceptable).
- current balance sheet (or FSA-2037)
- projected income/expense for planning year (or FSA-2038)
- annual crop and livestock production yields
- an aerial photo or map that delineates the proposed conservation area according to subparagraph 82 B.

194 Processing Conservation Contract Request (Continued)

B Processing a Delinquent or Financially Distressed Borrower's Request

If the borrower is eligible for loan servicing, the authorized agency official uses eDALR\$ to determine which loan servicing program or combination of programs may enable the borrower to develop a feasible plan.

When using eDALR\$ to process a loan servicing application that includes a request for a conservation contract, the authorized agency official shall input into eDALR\$ the contract term and conservation acreage.

- The authorized agency official should determine the financial effect of the different contract lengths by running the 3 contract term scenarios on eDALR\$ or the Conservation Contract Estimator Tool, such as 10-, 30-, and 50-year contract terms. By varying the contract term and holding all other input parameters constant, the authorized agency official and borrower may compare the magnitude of debt cancellation across contract terms.
- The authorized agency official also should vary the conservation acreage to determine the effect of changing the size of the proposed conservation contract area. The authorized agency official extrapolates the size of the proposed conservation area from the area marked on the borrower's aerial photo or map. For each contract term that enables a borrower to develop a feasible plan, the authorized agency official should record the minimum conservation acreage that is needed to create a feasible plan.

Example: A delinquent borrower applies for loan servicing and indicates an interest in FSA-2535. The aerial photo the borrower submits indicates the proposed conservation area is 1,000 acres. Using eDALR\$ or the Conservation Contract Estimator Tool, the authorized agency official determines that the borrower can develop a feasible plan if the borrower accepts FSA-2535 for 30 or 50 years. eDALR\$ indicates that a 50-year contract reduces the borrower's debt by \$20,000, while a 30-year contract reduces the borrower's debt by \$12,000. By adjusting the number of acres inputted into eDALR\$, the authorized agency official determines that at a minimum, the borrower has to place 700 acres of land into a conservation easement under a 30-year contract or 500 acres of land into a conservation easement under a 50-year contract to develop a feasible plan.

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.

***--Note:** FSA-2071 may be utilized to provide documents to the borrower.--*

[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.

249 Closing Write-Downs

B Closing Write-Down

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- ensure that all liable parties have correctly executed FSA-2026
- mark the existing promissory note or assumption agreement "Satisfied by Approved Debt *--Write-down" if the loan is completely written down or "Restructured with Partial Debt Write-down" if the loan is partially written down, and attach it to the new FSA-2026--*
- attach the promissory note, if required, to the new FSA-2026
- file FSA-2026 according to 32-AS
- provide a copy of the new FSA-2026 to the borrower at closing
- file the original eDALR\$ report in Position 3
- *--SED must approve all write-downs.--*

C SAA Required

[7 CFR 766.201] (a) The Agency requires a borrower to enter into a SAA with the Agency covering all real estate security when the borrower:

(1) Owns any real estate that serves or will serve as loan security; and

--(2) Accepts a write-down in accordance with section 766.111 (paragraph 172).--

FSA requires FSA-2543 when debt is written down on a loan secured by real estate. If the specific loans that are to be written down are not secured by real estate before the current servicing action, FSA-2543 does not need to be completed even if other serviced loans are secured by real estate.

See Part 9, Section 1 for details on servicing SAA's.

A borrower will execute FSA-2543 and it will remain attached to the new FSA-2026. Copies of FSA-2543 will be attached to all copies of FSA-2026.

249 Closing Write-Downs (Continued)**D Processing Write-Down**

--The authorized agency official will process a 3R – Shared Appreciation Write-down-- transaction in DLS Special Servicing to record the write-down and to establish an equity record for the debt written down. The equity record will establish an account for the amount of the SAA recapture that may come due.

The equity record will be for the total amount of debt written down on all loans, including those not secured by real estate. This total amount will be used when recording the DLS transactions and also used when completing FSA-2543.

PLS transactions processed within the DLS Special Servicing system will be systematically created and sequenced. Manual user creation of these transactions is not required or authorized. Refer to the DLS User Guide for additional information.

E Additional Security Required

The borrower must agree to additional liens on available security according to paragraph 211. *--FSA's real estate and personal property liens will be maintained by cross collateralization even if all real estate or personal property type loans are written off.--*

As noted in subparagraph 211 A, if additional real estate security is pledged, the filing information and appraised market value of this security will be included when completing FSA-2543. Any sales or conveyances of the additional real estate security will also be subject to recapture according to paragraph 342.

Example A: A borrower receives a write-down on a loan that is secured by real estate with an appraised value of \$65,000. As part of the servicing, the borrower will also be providing the agency with a lien of previously unencumbered security. This additional security is appraised and valued at \$45,000. When completing FSA-2543, the market value of all real property securing FSA notes will be \$110,000 and filing information for both properties will be included on the form.

284 Determining Applicant and Property Eligibility (Continued)**F Conveyance of Homestead Protection Property**

[7 CFR 766.152(a)(4)] Where voluntary conveyance of the property to the Agency is required to process the homestead protection request, the Agency will process any request for voluntary conveyance according to § 766.353 (Part 14).

G Homestead Protection Agreement

If the authorized agency official determines that the borrower is eligible for homestead protection, the borrower and FSA enter into FSA-2539.

- The authorized agency official attaches an unexecuted FSA-2591 to FSA-2539.
- The borrower must provide FSA with:
 - an executed FSA-2539
 - a completed FSA-2570
 - all documents required for voluntary conveyance according to Part 14 for a pre-acquisition situation.

***--Note:** FSA-2071 may be utilized to provide documents to the borrower.--*

H Notifying Borrower of Appeal Rights

If FSA rejects a borrower's request for homestead protection, or the borrower disagrees with the configuration of the property or the appraisal, the authorized agency official notifies the borrower of the reasons for FSA's decision. In the letter, FSA offers the borrower appeal rights according to 1-APP.

285-296 (Reserved)

348 Additional Servicing of Shared Appreciation Agreements

A Subordination of Shared Appreciation Agreement

FSA may subordinate its lien on real property securing the shared appreciation agreement only if the borrower's debt to prior lienholders will not increase during the term of the shared appreciation agreement. The borrower must meet the requirements for subordinations described in 4-FLP, Part 6. If the shared appreciation agreement recapture is also secured by ~~personal property, the personal property may be subordinated according to 4-FLP, paragraph 118.~~*

B Assumption of Shared Appreciation Amount

A transferee may assume the shared appreciation payment agreement or unamortized shared appreciation agreement recapture on program or NP terms based on eligibility and loan limitations.

349-360 (Reserved)

361-365 (Withdrawn--Amend. 39)

366-380 (Reserved)

Part 13 Voluntary Liquidation**461 General Requirements****A Voluntary Sale of Property**

[7 CFR 766.352(a)] A borrower may voluntarily sell real property or chattel security to repay Agency debt in lieu of involuntary liquidation if all applicable requirements of this section are met. Partial dispositions are handled in accordance with part 765, subparts G and H (4-FLP, Part 7) of this chapter.

(1) The borrower must sell all real property and chattel that secure Agency debt until the debt is paid in full or until all security has been liquidated.

There are several types of voluntary liquidation including sale, transfer, and conveyance of security. This part addresses voluntary sale of real property and chattel security. Voluntary conveyance is discussed in detail in Part 14 and transfers in 4-FLP, Part 9.

B Notifying the Borrower

With Agency approval, a current borrower may initiate voluntary liquidation at any time.

--For a borrower in monetary or non-monetary default, FSA will notify the borrower of the-- default according to Part 3. The authorized agency official will work with a borrower in default to voluntarily liquidate security; however, the authorized agency official will not delay FSA's required servicing, acceleration, and involuntary liquidation to accommodate the borrower's liquidation efforts.

462 Voluntary Liquidation of Real Property

A Approval Request

[7 CFR 766.352(a)(2)] The Agency must approve the sale and approve the use of proceeds.

The borrower must:

- complete and sign FSA-2061 with the assistance of the authorized agency official

Note: Only items 1 through 5 of the FSA-2061 are required if the transaction results in *--all FSA debts being paid in full. See 4-FLP, Exhibit 25.5 for examples of how to complete FSA-2061.--*

- provide a sales contract for the property indicating the price and terms of the sale
- work with FSA to complete an operational review under 4-FLP, Part 2 reflecting the proposed transaction

Notes: If the review shows that the operation will be financially distressed, the borrower should be serviced under Part 3.

An operational review is not required if the transaction will result in all FSA debts being paid in full.

- sell the property for not less than the market value unless FSA is being paid in full.

B Title Search

The authorized agency official will conduct a new lien search if adequate title information is not available in the borrower's case file. The purpose of the search is to:

- determine the liens of other parties on the property and their effect on liquidation
- ensure proper distribution of sale proceeds.

The borrower pays the cost of all title searches or it will be charged to the borrower's account if they are unable to pay. The authorized agency official will obtain a title search according to the procedures used in the State where the property is located. SED will issue a State supplement as appropriate.

C Appraisal and Disposition of Collateral Proceeds

FSA will appraise the property according to 1-FLP, Part 6 to determine the property's market value only after receipt of a sales contract. Any sale proceeds received by the borrower over and above the FSA-determined market value must be applied to the borrower's FSA debt until the FSA loans secured by the collateral are paid in full. The authorized agency official will apply sale proceeds according to 4-FLP, Part 5.

462 Voluntary Liquidation of Real Property (Continued)**F Real Estate Auctions**

Except as set forth in subparagraph D or E, or unless the minimum bid will pay the account in full, borrower requests to sell real estate security at public auction may only be approved through Administrator's Exception. The request will address:

- information required under subparagraph 4 B
- auctioneer's experience with selling real estate
- auctioneer's plan for advertising the auction, including where advertisements will be placed and how long they will run
- how the auction will maximize FSA recovery over a traditional sale through a realtor
- FSA's estimated recovery from forced liquidation (Exhibit 60)
- valuation and liquidation plan for chattel security
- appraised values of the property as it is being advertised and auctioned. This can be demonstrated with an appraisal that addresses separate tract values as an addendum.

G Approving the Sale

On an individual basis

--After the authorized approval official signs FSA-2061 approving the borrower's request-- for sale of real property, FSA will provide a copy of the signed form to the borrower.

The authorized agency official may, but is not required to, attend the closing of the sale. If necessary, the authorized agency official may contact the borrower's closing agent to ensure proper distribution of the sale proceeds.

H Rejecting the Sale Request

If the request for sale is not approved, the authorized agency official will notify the borrower in writing of the reasons for not approving the sale and offer appeal rights. See 1-APP for explanation of borrower's appeal rights.

463 Closing the Sale of Real Property

A Processing the Sale Proceeds

After the sale, the authorized agency official will record the transaction and credit the borrower's account.

[7 CFR 766.352(a)(3)] The sale proceeds are applied in order of lien priority, except that proceeds may be used to pay customary costs appropriate to the transaction provided:

[7 CFR 766.352(a)(3)] (i) The costs are reasonable in amount;

Any costs beyond those believed reasonable by the authorized agency official must be supported by the borrower as being typical for similar transactions in the area.

[7 CFR 766.352(a)(3)] (ii) The borrower is unable to pay the costs from personal funds or have the purchaser pay;

[7 CFR 766.352(a)(3)] (iii) The costs must be paid to complete the sale;

Only costs essential for the actual sale will be released. Capital gains taxes are not considered essential for completing an actual sale and are not FSA's responsibility.

[7 CFR 766.352(a)(3)] (iv) Costs are not for postage and insurance of the note while in transit when required for the Agency to present the promissory note to the recorder to obtain a release of a portion of the real property from the mortgage.

Examples of customary costs may include the following:

- real estate taxes that must be paid to complete the transaction
- title examination
- surveys
- abstracts
- title insurance
- reasonable attorney's fees
- real estate broker's commissions
- judgment liens.

The borrower's closing agent will distribute sale proceeds according to lien priority, as *--specified on FSA-2061. See 4-FLP, Exhibit 25.5 for examples of how to complete FSA-2061.--*

The authorized agency official will apply the proceeds from the sale to the borrower's FSA loan account according to 4-FLP, Part 5.

The authorized agency official will record the sale through appropriate issuance, distribution, and filing to FSA records of the appropriate deeds and settlement documents.

498 Additional Requirements (Continued)**E Servicing Notifications**

[7 CFR 766.353(b)(3)] The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

F Full Liquidation

[7 CFR 766.353(b)(2)] The borrower conveys all real property securing the Agency loan; and

The authorized agency official will confirm that the conveyance offer includes all real property securing FSA debts. If the borrower has real property or chattel securing an FSA loan that is not part of the conveyance offer, the authorized agency official must document that the borrower is in the process of liquidating this security by another liquidation method approved by FSA. All borrower sales must be completed before the voluntary conveyance.

The authorized agency official will include in the borrower's case file any appraisal, environmental information, and title search from subparagraphs B, C, and D, respectively.

The authorized agency official will include a statement of the borrower's unpaid FSA debts with a printout from the appropriate ADPS DL or AI screens. Voluntary conveyance documentation must include information on prior and junior liens, as well as judgments, if not included in the conveyance offer.

499 Processing the Borrower's Conveyance Offer**A Forwarding the Case File**

The authorized agency official will forward the completed case file to SED if required. The approval official may approve all conveyances and debt settlements according to the approval authorities set forth in 1-FLP, Part 2. The case file must contain the borrower's offer to convey, including all items listed in paragraph 497. In addition, the authorized ~~agency official will develop a completed credit action in FBP including a recommendation--~~ agency official will develop a completed credit action in FBP including a recommendation to the approval official on whether to accept or reject the conveyance offer.

B Conditions for Conveying Real Property

[7 CFR 766.353(b)] The Agency will accept voluntary conveyance of real property by a borrower if:

(1) Conveyance is in the Agency's financial interest;

The authorized agency official will complete Exhibit 37 showing the recovery value from the conveyance. The approval official will accept the conveyance offer if the borrower's application meets all FSA conditions and if acceptance is clearly in FSA's best financial interest.

C Prior and Junior Liens

[7 CFR 766.353(c)] (1) The Agency will pay prior liens to the extent consistent with the Agency's financial interest.

(2) Before conveyance, the borrower must pay or obtain releases of all junior liens, real estate taxes, judgments, and other assessments. If the borrower is unable to pay or obtain a release of the liens, the Agency may attempt to negotiate a settlement with the lienholder if it is in the Agency's financial interest.

The approval official will also use the information from Exhibit 37 to determine whether FSA will pay prior liens along with the conveyance. FSA may pay prior liens if the loan approval official expects a substantial recovery from the conveyance or if the lienholder objects to FSA accepting the conveyance subject to a prior lien.

The authorized agency official will charge any protective advances to pay prior liens to the borrower's account according to 4-FLP, Part 6.

--Section 3 Voluntary Conveyance of Personal Property*516 Before Receiving Conveyance Offers of Personal Property--*****A Borrower Meeting**

--Before accepting the conveyance of personal property, the authorized agency official will-- schedule a meeting with the borrower to discuss FSA's conveyance requirements. The authorized agency official will ensure that FSA has provided a loan servicing notification package to the borrower.

--The borrower will be advised of the benefits of executing FSA-2571, as opposed to beginning the voluntary conveyance process, as it is typically simpler and quicker and does not require SED approval or a concurrent debt settlement application. Personal property may-- sometimes be conveyed as fixtures as described in subparagraph 481 A.

The authorized agency official will also inform the borrower that:

- voluntary conveyance is a part of liquidation

Note: The borrower must liquidate, convey, or do a combination of both for all real *--property and personal property that secures the borrower's FSA loans.--*

- any equity in the property to be conveyed may be lost through conveyance
- there could be tax consequences

Note: FSA does not give tax advice. The borrower should consult a tax professional or the IRS for any guidance on this issue. FSA does not release for income taxes. The property is owned by the borrower and the borrower is responsible for any capital gains taxes.

- *--FSA may determine that it is able to accept the conveyance of the personal property, but is unable to approve FSA-2732 that was submitted with the conveyance offer.

Note: In these cases, FSA will accept the conveyance and deny the debt settlement application. See subparagraph 499 F for additional guidance.

The authorized agency official will provide the borrower with FSA-2570, FSA-2070, FSA-2732, and a list of the requirements to make a complete conveyance offer.

--517 Personal Property Conveyance Application Requirements--**A Application**

[7 CFR 766.354(a)] The borrower must supply the Agency with the following:

[7 CFR 766.354(a)] (1) An Agency application form;

The borrower must complete FSA-2570.

[7 CFR 766.354(a)] (2) A current financial statement. If the borrower is an entity, all entity members must provide current financial statements;

[7 CFR 766.354(a)] (3) Information on present and future income and potential earning ability;

[7 CFR 766.354(a)] (4) A bill of sale including each item and titles to all vehicles and equipment, as applicable;

The borrower must complete FSA-2070 for all personal property securing FSA debt.

The borrower must provide FSA with titles for all titled vehicle or equipment security if FSA does not have such titles on file.

[7 CFR 766.354(a)] (5) A resolution approved by the governing body that authorizes the conveyance in the case of an entity borrower;

An entity borrower must provide a resolution approved by the organization's governing body. The resolution must identify the officials authorized to execute the offer and deed on behalf of the borrower. If shareholder approval is required, the resolution must confirm that the entity has obtained shareholder approval.

The authorized agency official may request additional information from the borrower if it is required to make a determination on the conveyance offer.

519 Processing the Borrower's Conveyance Offer

A Preparing the Case File

The case file must contain the borrower's offer to convey, including all items in paragraph 517. In addition, the authorized agency official must include:

- a recommendation to the loan approval official about whether to accept the conveyance offer
- the authorized agency official's assessment and recommendation on the borrower's debt settlement application
- *--the authorized agency official will develop a complete credit action in FBP including a recommendation to the approval official on whether or not to accept or reject the conveyance offer.

The authorized agency official will include documentation of the results of the lien search, the personal property inspection, appraisal, and likely recovery value from Exhibit 37 in--* the FBP.

A memorandum will be included indicating that the borrower and the authorized agency official have reached a preliminary agreement on how, when, and where the borrower will deliver the chattel.

B Forwarding the Case File

The authorized agency official will forward the completed case file to SED. SED may approve all conveyances and debt settlements according to the approval authorities set forth in 1-FLP, Part 2. The case file must contain the borrower's offer to convey, including all items listed in paragraph 497. In addition, the authorized agency official should include a recommendation on acceptance of the offer.

C Evaluating the Offer

--SED will accept conveyance of personal property only if:--

[7 CFR 766.354(b)(3)] The conveyance is in the Agency's financial interest.

--Conveyances of personal property will be approved only in extreme circumstances where-- no other option is possible.

519 Processing the Borrower's Conveyance Offer (Continued)**D Rejecting the Conveyance**

If SED determines that FSA should not accept the conveyance, SED or designee will:

- notify the borrower of FSA's denial in writing stating the reasons for the rejection and return FSA-2070 to the borrower

Note: As part of the written denial, the borrower will be given appeal rights according to 1-APP.

- send a copy of the rejection letter, FSA-2070, and the case file to the authorized agency official for continued account servicing.

The borrower may voluntarily liquidate security through other means.

FSA will not delay acceleration or involuntary liquidation action if SED rejects the conveyance.

E Accepting the Conveyance

If SED approves the offer, SED will return the case file to the authorized agency official with instructions for closing the conveyance. SED will include the following conditions in the approval:

- the authorized agency official must account for all chattel items listed in the conveyance offer
- the borrower must deliver the property according to an agreement reached between the borrower and the authorized agency official.

F Notifying the Borrower

The authorized agency official will notify the borrower of FSA's acceptance of the conveyance after all SED's conditions are met.

533 Acceleration Actions

A Preparation of the Case File

When the borrower meets the conditions for acceleration, the authorized agency official will prepare the case file for acceleration. A State supplement will be issued to describe the *--required procedures to accelerate FLP accounts, including “personal property only” accounts.--*

B Civil Rights and Primary Loan Servicing Reviews

FSA-2580 and FSA-2581 are used to document and certify that FSA fully and appropriately considered the borrower for servicing and that there is no evidence of inconsistencies, inequitable treatment, or discrimination complaints.

The authorized agency official will ensure that FSA-2580 has been completed for primary loan servicing. The next level supervisor or State FLS or FLC will review primary loan servicing actions and sign FSA-2580 as the reviewer. FSA-2580 is not required in cases referred for acceleration because of the borrower’s failure to graduate or for acceleration of nonprogram loans.

DD will:

- complete FSA-2581, Part A
- submit FSA-2580 (for accounts with primary loan servicing) and FSA-2581 with case files to SCRRG for action.

SCRRG consists of SED, FLC, and the State civil rights coordinator. Once SCRRG determines that acceleration can continue and documents this decision on FSA-2581, Parts B and C, the account will be submitted for discrimination complaint status clearance according to 1-FLP, Exhibits 12 and 13. Once the discrimination complaint status clearance process has been completed indicating that acceleration can continue, the authorized agency official will execute the problem case report.

*--According to item 18 of FSA-2581, the SCRRG may return a case to the local service center (with cc to SM.FSA.DCWa7.DirectLoans or fsa-directloans@usda.gov) for corrective PLS action. If problems with PLS are identified before completion of FSA-2581, the FLC (authority may be re-delegated to experienced FLS) is authorized to provide guidance regarding corrective PLS action.-- *

C Problem Case

FSA-2550 will be completed to document the status and circumstances of the account when there is real estate security.

D Determining Prior Liens

If current lien information is not in the case file, the authorized agency official will obtain a title or lien search on all security property to determine whether there are any prior liens on the property.

533 Acceleration Actions (Continued)**E Property Value**

The authorized agency official will include either the estimated value or appraised value of the security in the case file. The authorized agency official may estimate the market value of the property, unless there are prior liens other than a current-year tax lien. If there are prior liens, the authorized agency official must obtain an appraisal to determine the “as is” market value of the property according to 1-FLP, Part 6, unless a State supplement allows the use of an estimated value.

F Narrative and Deficiency Judgment Recommendation

The authorized agency official will include a narrative description of the borrower’s financial condition and the conclusion of all appeals and mediation in the FBP.

The authorized agency official will recommend to the DD whether FSA should pursue a deficiency judgment. To make a recommendation, the authorized agency official will determine whether foreclosure will likely satisfy the borrower’s FSA debt. The basic formula for this calculation is:

Sale price - sale costs (if considered separate from recoverable costs and expenses) - recoverable costs and expenses to be charged - prior liens = net proceeds.

This calculation is an estimate. It may not be used as the basis for charging or crediting the borrower’s account. In using this formula, the authorized agency official must be aware of what costs are charged to the borrower’s account and what costs are deducted from the amount credited to the borrower’s account.

If the liquidation will not satisfy the borrower’s FSA account, FSA will assess the borrower’s financial situation to determine whether further recovery on the account is possible through a deficiency judgment. The authorized agency official will include these findings and a *--recommendation in the borrower’s FBP. See Exhibit 47 on SOL for deficiency judgements.--*

If the borrower’s account could be referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien according to 7-FLP, Part 11, any attorney’s fees and any fees charged by DOJ will be added to the debt.

G Submitting the Problem Case File

The problem case file will be submitted to the DD as soon as the file is complete or within 90 calendar days of when the borrower meets all acceleration criteria, whichever come first.

Part 16 Involuntary Liquidation

Section 1 General Information

551 Introduction

A General Procedures

[7 CFR 766.351(a)(1)] When a borrower cannot or will not meet a loan obligation, the Agency will consider liquidating the borrower's account in accordance with this subpart.

FSA will move to liquidate security after acceleration.

The involuntary liquidation process differs among States, and in particular between judicial and nonjudicial foreclosure States. SED, in consultation with OGC, will issue a State supplement to provide detailed guidance on involuntary liquidation.

--If the borrower does not resist FSA's efforts to collect the security, the authorized agency official will contact an auctioneer, the State Contracting Officer or other third party, as required by State policy to collect the security. To ensure adequate market research is completed for liquidation actions, three vendor quotes must be obtained, or documentation as to why they were not obtained must be provided.--

[7 CFR 766.357(b)(4)] After the date of foreclosure, the borrower or former owner retains no statutory, implied, or inherent right of possession to the property beyond those rights granted by state law.

If FSA acquires property as a result of involuntary liquidation, the property becomes inventory property. FSA maintains and disposes of inventory property according to Part 21.

B Recordkeeping

During the involuntary liquidation process, the authorized agency official must make entries into the FBP running record on the liquidation process and retain any letters, forms, or documentation associated with the acceleration that are required by this handbook and State supplements.

C Conditions for Involuntary Liquidation

[7 CFR 766.357] (a) The Agency will liquidate the borrower's security if:

(1) The borrower does not satisfy the account in accordance with §§ 766.355 and 766.356 (Part 15), as appropriate;

(2) The involuntary liquidation is in the Agency's financial interest.

551 Introduction (Continued)**D Charging the Borrower's Account**

[7 CFR 766.357(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred by the Agency as a result of the repossession and sale of the property.

If the borrower's account is referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien according to 7-FLP, Part 11, any attorney's fees and any fees routinely charged by DOJ will be added to the amount of debt reported to DOJ. Borrowers have been informed of this fee by notifications of offset and/or notifications of acceleration. SED will issue a State Supplement as required on the proper calculation of the amount to be reported to DOJ.

***--Note:** If the account is to be paid in full, or upon the advice and guidance from the Regional OGC, request DAFLP concurrence to process the 3 percent DOJ fee as a noncash--* credit.

E Crediting the Borrower's Account

[7 CFR 766.357(c)(2)] The Agency will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs.

F Outstanding Loan Balances Remaining After Repossession

[7 CFR 766.357(c)(3)] If an unpaid balance on the FLP loan remains after the sale of the repossessed property, the Agency will service the account in accordance with part 761, subpart F of this chapter and part 3 of this title. (7-FLP, Part 12)

For any outstanding balance remaining after foreclosure for which the borrower is still liable, if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

--Section 3 Personal Property*581 Repossession of Personal Property****A Repossessing Personal Property**

FSA may take possession of personal property as part of an involuntary liquidation. FSA may acquire personal property by bidding at a sale only if bidding is clearly in FSA's* interest and SED approves acquisition. SED determines the bid amount and designates an authorized agency official to attend the sale. Prior lienholders are notified of the repossession, as appropriate by FSA-2572.

--FSA-2571 will be completed for liquidation of personal property security by FSA or the-- borrower.

B Borrower Agrees to Sell Property During Involuntary Liquidation

If voluntary liquidation will not be delayed, the borrower may receive FSA assistance in *--arranging personal property liquidation and release of liability or debt settlement using--* FSA-2571 and FSA-2732:

- after the account has been accelerated
- before referral to Treasury as set forth in 7-FLP.

C Documenting Items

The authorized agency official documents the liquidated items on FSA-2040.

--581 Repossession of Personal Property (Continued)--**D Peaceably Obtaining Possession of Security**

--If the borrower does not liquidate the personal property with FSA assistance, the-- authorized agency official will inform the borrower of FSA's intent to repossess the property.

If the borrower consents to the repossession or does not resist FSA's efforts to collect the security, the authorized agency official will contact an auctioneer, the State Contracting Officer or other third party, as required by State policy to collect the security. To ensure adequate market research is completed for liquidation actions, 3 vendor quotes must be obtained, or documentation as to why they were not obtained must be provided. The--* authorized agency official should coordinate logistical details with the borrower and the auctioneer including:

- where the property is located
- *--when the personal property should be collected
- where the personal property will be delivered.--*

The authorized agency official will instruct the auctioneer that if peaceful repossession *--cannot be obtained, the auctioneer should not attempt to collect the personal property--* and should report back to the authorized agency official. If the auctioneer cannot collect the security, the authorized agency official proceeds according to subparagraph E.

E Initiating Legal Procedures

If the borrower does not consent to the repossession, the authorized agency official forwards the borrower's case file to SED. Based on the State's procedures for handling involuntary liquidation, SED processes the case file to initiate foreclosure.

- SED may forward the case file with all relevant information and documentation to OGC and/or the U.S. Attorney.
- SED may keep the borrower's file in the State Office. In this case, SED is responsible for initiating and processing the foreclosure.

F Borrower Abandons Property

If the borrower abandons the property or if the security is in danger or risk of injury or degradation, the authorized agency official must act according to Part 18.

582 (Withdrawn--Amend. 22)

583-600 (Reserved)

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

None.

Forms

This table lists the forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		81
FSA-137	Address Information Request		67, 386
FSA-2001	Request for Direct Loan Assistance		81, 344
FSA-2003	Three-Year Production History		81
FSA-2025	Notice of Approval, Terms and Conditions and Borrower Responsibilities		346
FSA-2026	Promissory Note		Text
FSA-2027	Supplemental Payment Agreement		161
FSA-2029	Mortgage/Deed of Trust		Text
FSA-2037	Farm Business Plan Worksheet Balance Sheet		194
FSA-2038	Farm Business Plan Worksheet Projected/Actual Income and Expenses		194
FSA-2040	Agreement and Record of the Disposition of FSA Security/Release of Proceeds		464, 465, 581, 582
FSA-2061	Application for Partial Release or Consent		194, 462, 463
FSA-2070	Bill of Sale		516, 517, 519
FSA-2071	Transmittal of Documents		133, 146, 196, 284
FSA-2080	Release From Personal Liability		84
FSA-2489	Assumption Agreement		Text
FSA-2501	Addendum to the Promissory Note or Assumption Agreement for Set-Aside Program		44-46, 48, 53-56, 58
FSA-2503	Addendum to the Promissory Note or Assumption Agreement Extending the Final Installment Due Date For Balloon Payments		129

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2510	Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due		3, 67, 81, 83, 85, 401, 702
FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due		3, 67, 68, 85, 102
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who Are in Non-Monetary Default		3, 67, 68, 83, 85, 444, 702
FSA-2516	30 Day Reminder of the Notice of Availability of Loan Servicing		83
FSA-2517	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
FSA-2518	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
FSA-2519	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2520	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2521	Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322
FSA-2522	Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
NRCS-CPA-026 NRCS-CPA-026e	Highly Erodible Land and Wetland Conservation Determination		81, 801
RD 3550-28	Authorization Agreement for Preauthorized Payments		50
SF-750	Claims Collection Litigation Report (CCLR)		403

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ACL	Accelerated	534, Ex. 11
BAP	Bankruptcy Action Pending	42, 401, Ex. 11
CAP	Court Action Pending	421, Ex. 11
CCLR	Claims Collection Litigation Report	403
CL	Conservation Loan	41, 131, 145, Ex. 2, 17
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DEF	Deferral	248, Ex. 11
eDALR\$	electronic Debt and Loan Restructuring System	Text, Ex. 17
FAP	Foreclosure Action Pending	567, Ex. 11
FLB	Farm Loan Branch	Text
FLMAC	Farm Land Market Advisory Committee	Ex. 17
ISA	installment set-aside	46, 48, 131
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
NP	nonprogram loan	Text
NRBRA	Net Recovery Buyout Recapture Agreement	321, 361, 363, 365
NRV	net recovery value	102, 321, 462
PACER	Public Access to Court Electronic Records	403
PLS	primary loan servicing	67, 68, 401, Ex. 11
POC	proof of claim	401, 403
PRB	Program Reports Branch	708
RDBCOS	Rural Development Business Center Service Office	Text, Ex. 11

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346
SAA	shared appreciation agreement Note: When reference is made to a signed agreement as a condition of receiving debt write-down.	67, 197, 249, 343, 344, 346, 403, Ex. 2, 4, 25, 26
SAA	subject to approved adjustment Note: When reference is made to the financial “flag”/designation for an account where FSA has approved a borrower’s debt settlement offer as documented on FSA-2732.	172, 249, 343, 404, 406, Ex. 11
SCRRG	State Civil Rights Review Group	533
SEC	State Environmental Coordinator	802, 821, 837, 839
SI	Security Instrument	344, 346
SOL	Statute of Limitations	533, Ex. 47
ST	softwood timber loan	41
TOA	type of assistance	131
TPJ	third party judgment	421, Ex. 11
YL	youth loan	41, 42, 68, 132

Delegations of Authority

SED may redelegate to FLC authority to approve PLS where a borrower has received PLS at least 2 times in the previous 5 years or is receiving a second or subsequent consecutive restructure with a deferral.

SED may redelegate to FLC, FLS, and/or DD the authority to waive real estate and/or non-essential asset appraisals for current market value buyout when the chattel appraisal shows that chattel security value exceeds the debt, and security has been cross-collateralized.