

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 65

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 66 A has been amended to add a reminder regarding the impact of collection fees for TOP offset upon the borrower's continued delinquency.

Subparagraph 67 A has been amended to clarify that form FSA-2512 is no longer required to be sent by certified mail.

Subparagraph 67 C and related CFR has been amended to limit the use of certified mail for initial PLS notification to borrowers with a payment at least 90 days past due (FSA-2510) or who are in nonmonetary default (FSA-2514).

Subparagraph 103 A has been amended to reference operational review and analysis requirements.

Subparagraph 116 B has been amended to clarify that FSA-2519, FSA-2520, FSA-2523, and FSA-2524 should be hand delivered or sent by regular mail.

CFR references have been amended as follows for subparagraphs:

- 83 A to include a reference to FSA-2510 and FSA-2510-IA
- 81 E, 211 C, and 803 A to update the environmental reference to 7 CFR part 1b
- 129 A adds a deadline for requesting an extension of balloon payments
- 5 B, 132 B, 145 B, 284 B, 387 D, 461 A, 464 A, 518 A, 520 B, 780 B, 780 C, and 780 D to replace "chattel" with "personal property"

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

- 230 B and 343 C to update CFR cross references
- 387 D clarifies the amount of unauthorized assistance to be converted to NP status and replaces “chattel” with “personal property”
- 388 D makes a technical correction regarding equitable relief.

Exhibit 2 has been amended to:

- add a CFR definition for Appraisal
- remove CFR “Chattel Security” definition and non-CFR “personal property” definition and add CFR “personal property security” definition
- update Inventory Property, Lien and Security Value CFR definitions to replace “chattel” with “personal property”
- update and expand on CFR definitions for Market Value and Potential Liquidation Value.

Exhibits 74 and 75 have been withdrawn and replaced by FSA-2598 and FSA-2599.

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**5 Introduction to Direct Loan Servicing – Special and Inventory Property Management
(Continued)**

B Inventory Property Management

[7 CFR 767.1(a)] This part describes the Agency’s policies for

(1) Managing inventory property;

(2) Selling inventory property;

(3) Leasing inventory property;

***--(4) Managing real and personal property the Agency takes into custody after--*
abandonment by the borrower;**

**(5) Selling or leasing inventory property with important resources, or located in special
hazard areas; and**

(6) Conveying interest in real property for conservation purposes.

**[7 CFR 767.1(b)] The Agency maintains, manages and sells inventory property as
necessary to protect the Agency’s financial interest.**

Section 1 Notifying Borrowers of Loan Servicing**66 Borrower Notification****A General Requirements**

[7 CFR 766.101(a)] The Agency will provide servicing information under this section to borrowers who:

[7 CFR 766.101(a)] (1) Have a current farm operating plan that demonstrates the borrower is financially distressed;

[7 CFR 766.101(a)] (2) Are 90 days or more past due on loan payments, even if the borrower has submitted an application for loan servicing as a financially distressed borrower;

The authorized agency official must provide a loan servicing notification package to a borrower before initiating liquidation, accelerating borrower loan accounts, or repossessing or foreclosing FSA security, unless the borrower was previously notified as 90 calendar days past due or non-monetary default and is already being serviced according to this part.

Example: A borrower misses their January 1, 2021, payment and is properly notified when they become 90 calendar days past due. Processing is then delayed and while FSA continues PLS they make the January 1, 2021, payment on January 15, 2022. At this point, they are less than 90 calendar days past due; however, since the delinquency was not cured at any point, FSA continues to process PLS. They are not renotified.

***--Important:** Not all of the amount offset by TOP will be applied to the borrower's delinquent account as Treasury retains a collection fee. See 7-FLP.--*

66 Borrower Notification (Continued)**A General Requirements (Continued)**

If a loan is past due, the far left-hand column of the 540 Report shows the number of days that the loan is past due. The code “PDD” (Past Due Days) is shown beside the number. The 540 Report should be printed and reviewed immediately by the authorized agency official once it becomes available. Both the “Borrowers with Loans 90 Days Past Due” and the “Borrowers with Loans Less Than 90 Days Past Due” should be reviewed to find all accounts that will need to be notified of primary loan servicing in the coming month.

The borrower will be notified within 15 calendar days of becoming 90 calendar days past due.

Example: A borrower’s annual installment is due January 1. The borrower fails to make the payment and a local agency official contacts the borrower to discuss the missed payment. The borrower promises to sell steers on May 1st to make the annual installment. The agency official acknowledges the proposal, but reminds the borrower that PLS notices must be sent if the account becomes 90 days past due. The account is shown as 90 days past due on the April 540 Report, therefore, the local agency official must send the borrower the required servicing package and enters the PLS action in DLS Special Servicing.

66 Borrower Notification (Continued)

A General Requirements (Continued)

[7 CFR 766.101(a)] (3) Are in non-monetary default on any loan agreements;

For further information about compliance with loan agreements, see 4-FLP, Part 6.

The borrower's non-compliance must be determined according to paragraph 65 before being provided with Primary Loan Servicing notifications.

[7 CFR 766.101(a)] (4) Have filed bankruptcy;

When FSA learns that a borrower has filed for bankruptcy, FSA will service the borrower's account according to Part 11.

[7 CFR 766.101(a)] (5) Request this information;

The authorized agency official will record a borrower's request for a loan servicing notification package in the borrower's FBP running record or place the written request in the borrower's file.

[7 CFR 766.101(a)] (6) Request voluntary conveyance of security;

The authorized agency official will send a loan servicing notification package to a borrower requesting full liquidation by voluntary conveyance, unless the borrower was previously notified and is already being serviced according to this part.

[7 CFR 766.101(a)] (7) Have only delinquent SA; or

FSA will notify delinquent NP borrowers who have only SA amortization agreements.

[7 CFR 766.101(a)] (8) Are subject to any other collection action, except when such action is a result of failure to graduate. Borrowers who fail to graduate when required and are able to do so, will be accelerated without providing notification of loan servicing options.

67 Providing Loan Servicing Notification Package

A Forms for Notifying Borrowers

[7 CFR 766.101(b)] The Agency will notify borrowers of the availability of primary loan servicing programs, conservation contract, current market value buyout, debt settlement programs and homestead protection as follows:

[7 CFR 766.101(b)] (1) A borrower who is financially distressed, or current and requesting servicing will be provided FSA-2512 (Appendix A to this subpart) (appendix only in CFR);

67 Providing Loan Servicing Notification Package (Continued)

A Forms for Notifying Borrowers (Continued)

--Notification will be hand-delivered or sent by regular mail to borrowers who are current or financially distressed and requesting servicing.--

[7 CFR 766.101(b)] (2) A borrower who is 90 days past due will be sent FSA-2510 (Appendix B to this subpart) (appendix only in CFR);

The authorized agency official must send FSA-2510 within 15 calendar days of the determination of the default. Notification will be sent by certified mail. The account will be flagged “PLS” (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing process has been completed or the account accelerated.

FSA-2001, PLSA Primary Loan Servicing Application Package, is available to download from the FFAS Employee Forms/Publications Online Website and includes the forms required to be sent with FSA-2510. The forms in this package may also be used when sending FSA-2514 for accounts that are also 90 days past due.

If non-monetary default is subsequently identified, the borrower’s noncompliance must be determined and notification sent according to paragraph 65. The borrower will not be sent FSA-2514 and a new PLS packet. The non-monetary default will be addressed in the appropriate pre-acceleration notice unless it is resolved.

If FSA-2510 is being sent to a primary borrower for delinquent loans that do not have a co-borrower, but a co-borrower exists for other loans not yet 90 days delinquent, the co-borrower must also be notified of potential non-monetary default using FSA-2506.

FSA-2506 sent to the co-borrower(s) should state that their operation is liable for other FSA direct loans that are currently in default, which affects the business’ ability to continue operations. The potential non-monetary default process should be followed according to subparagraph 65 A until SED concurrence is received on FSA-2551. After SED concurrence is received, FSA-2514 can then be sent to the co-borrower, including the same reasoning stated on FSA-2506.

[7 CFR 766.101(b)] (3) A borrower who is non-monetary or both monetary and non-monetary default will receive FSA-2514 (Appendix C to this subpart) (appendix only in CFR);

If a potential non-monetary default cannot first be resolved through the steps in subparagraph 66 A, FSA-2514 will be sent by certified mail. The account will be flagged “PLS” (Exhibit 11), according to subparagraph 67 B, until the primary loan servicing process has been completed, the default resolved, or the account accelerated.

[7 CFR 766.101(b)] (4) A borrower who has only delinquent SA will be notified of available loan servicing;

67 Providing Loan Servicing Notification Package (Continued)

C Methods of Notifying Borrowers

--[7 CFR 766.101(c)] Notices to borrowers with a payment at least 90 days past due 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 first-class mail or hand delivered.--

* * *

Certified mail return receipt service is required as an additional service when sending items by certified mail and must be purchased at the time of mailing.

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 FSA-137 is unsuccessful in determining the current address, see paragraph 9 for historical address LexisNexis search. If no new address can be obtained, see 1-FLP, paragraph 63.

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 FSA-2508 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 FSA-2509 whenever they are sent the FSA-2510 to-- further explain the reason for the notification and their servicing options.

Note: The DBSA fact sheet must be included with all PLS notification packages, except YL's.

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)

Section 2 Completing the Loan Servicing Application**81 Required Information****A General Application Requirements and Signatures**

[7 CFR 766.102(a)] Except as provided in paragraph (e) (subparagraph 83 A) of this section, an application for primary loan servicing, conservation contract, current market value buyout, homestead protection, or some combination of these options, must include the following to be considered complete:

FSA will consider an application complete when the borrower has completed, signed, dated, and submitted to the servicing office, the forms and reports listed in subparagraphs B through I to the extent that the borrower is responsible.

The authorized agency official will date stamp, on the date received, all material received from the borrower. Date of complete application is entered on FSA-2001.

* * *

B Application Form

[7 CFR 766.102(a)(1)] Completed Agency application form;

The borrower and, in the case of an entity, all entity members must complete FSA-2001. The authorized agency official will order personal and/or commercial credit reports immediately upon receipt of the signed FSA-2001. No credit report fee is collected for applications for servicing only.

Note: For FSA-2001 submitted without all required initials, the authorized agency official will obtain initials before closing the servicing action requested.

81 Required Information (Continued)

C Financial Records

[7 CFR 766.102(a)(2)] Financial records for the three most recent years, including income tax returns;

The borrower must provide all farm and nonfarm income and expense records, including family living expenses. Financial records will be submitted through FSA-2002 or other similar format. FSA does not release a borrower's income tax records without OGC's consent. Failure to provide income tax records is considered an incomplete application. Follow subparagraph 83 C for notification requirements. However, there are circumstances when an individual may not be required to submit income tax returns, such as certain tribal members or operations that do not meet minimum income thresholds.

D Production Records

[7 CFR 766.102(a)(3)] The farming operation's production records for the 3 most recent years or the years the borrower has been farming, whichever is less;

Farm production records will be submitted using FSA-2003 or similar format.

E Compliance With Environmental Requirements

[7 CFR 766.102(a)(4)] Documentation of compliance with the Agency's environmental *--regulations contained in part 1b of this title (1-EQ);--*

AD-1026 and NRCS-CPA-026e, which accurately reflect the current farm operation, must be used. FSA will not require new forms unless the existing forms no longer reflect the current operation.

F Verification of Non-Farm Income

[7 CFR 766.102(a)(5)] Verification of all non-farm income;

Non-farm income will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.

G Farm Operating Plan

[7 CFR 766.102(a)(6)] A current financial statement and the operation's farm operating plan, including the projected cash flow budget reflecting production, income, expenses, and debt repayment plan. In the case of an entity, the entity and all entity members must provide current financial statements;

FBP will be prepared from FSA-2001 using the borrower's historical data.

81 Required Information (Continued)**H Verification of Debt and Collateral****[7 CFR 766.102(a)(7)] Verification of all debts and collateral; and**

Debts will be verified and documentation included in the case file according to 3-FLP, subparagraph 42 A.

--A credit report is required unless current information is already contained in the borrower's case file or is otherwise available. The credit report fee will be paid by FSA unless the borrower has concurrently applied for an FLP Direct loan.--

I Other Application Requirements

[7 CFR 766.102(a)(8)] Upon Agency request, any leases, contracts, options and other agreements related to the operation.

82 Additional Information Required if Applying for Other Loan Servicing Programs**A Debt Settlement**

[7 CFR 766.102©] To be considered for debt settlement, the borrower must provide the appropriate Agency form, and any additional information required under part 761 subpart F of this chapter. (7-FLP, Part 12)

To apply for debt settlement, a borrower must complete and submit FSA-2732 and may do so at any time. The loan account does not need to be delinquent and the borrower does not need to apply for primary loan serving before applying for debt settlement. See 7-FLP, Parts 8 and 12.

B Conservation Contract

[7 CFR 766.102(b)] In addition to the requirements contained in paragraph (a) (paragraph 81) of this section, the borrower must submit an aerial photo delineating any land to be considered for a conservation contract.

To apply for a conservation contract, a borrower must submit to the County Office:

- a complete application as described in paragraph 81
- an aerial photo or map of the tract and approximate legal description, outlining the proposed boundaries of the conservation area.

See Part 5 for more information on conservation contracts.

83 Borrower Response Timeframes

A Borrower Response Timeframes

[7 CFR 766.101(d)] To be considered for loan servicing, a borrower who is:

(1) Current or financially distressed may submit a complete application any time prior to becoming 90 days past due;

If a distressed borrower becomes 90 calendar days past due before closing a loan restructure, processing will stop and the authorized agency official will send the 90-calendar-day past due notification.

[7 CFR 766.102(d)] If a borrower who submitted a complete application while current or financially distressed is renotified as a result of becoming 90 days past due, the borrower must only submit a request for servicing in accordance with paragraph (a)(1) (subparagraph 81 B) of this section, provided all other information is less than 90 days old and is based on the current production cycle. Any information 90 or more days old or not based on the current production cycle must be updated.

A borrower must submit a new, signed FSA-2001 to request servicing as a 90 day or more past due borrower. Any information from the original current or financially distressed FSA-2001 application form that is still considered current or is unchanged does not need to be duplicated on the new FSA-2001. All pages, including blank pages, must be initialed by the applicant on the new FSA-2001.

[7 CFR 766.102(e)] The borrower need not submit any information under this section that already exists in the Agency's file and is still current as determined by the Agency.

[7 CFR 766.101(d)(2)] Ninety (90) days past due must submit a complete application
--within 60 days from receipt of FSA-2510 or FSA-2510-IA;--

[7 CFR 766.101(d)(3)] In non-monetary default with or without monetary default must submit a complete application within 60 days from receipt of FSA-2514.

For borrowers who are 90 calendar days past due or in non-monetary default, all items required from the borrower according to paragraph 81 must be received in the office by close of business on the last day. If the 60th calendar day is a Saturday, Sunday, or Federal holiday, FSA will accept the borrowers completed application the next workday.

102 Eligibility (Continued)**E NRV of Nonessential Assets**

[7 CFR 766.104(a)(2)] The borrower does not have non-essential assets for which the net recovery value is sufficient to resolve the financial distress or pay the delinquent portion of the loan.

--See paragraph 9 for available LexisNexis assistance in identifying non-essential assets.--
eDALR\$ calculates NRV of a borrower's nonessential assets.

F Borrower in Non-Monetary Default

[7 CFR 766.104(a)(3)] If the borrower is in non-monetary default, the borrower will resolve the non-monetary default prior to closing the servicing action.

G Financially Distressed Borrower

[7 CFR 766.104(a)(5)] Financially distressed or current borrowers requesting servicing must pay a portion of the interest due on the loans.

A borrower who received FSA-2512 and is not delinquent must pay as much interest as feasible.

H Federal Crop Insurance Violation

[7 CFR 766.104(a)(6)] The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM).

I Debtors With SA Only

[7 CFR 766.104(b)] Debtors with SA only must:

(1) Be delinquent due to circumstances beyond their control;

(2) Have acted in good faith.

103 Consideration of Servicing**A General Policy**

The authorized agency official uses eDALR\$ to determine which loan servicing authority or combination of authorities may be available to the borrower. For additional information on eDALR\$ functions, see Exhibit 17.

--See 4-FLP, Part 2 and 1-FLP, paragraph 263 for operational review and analysis requirements.--

B Order in Which FSA Considers Servicing Options

[7 CFR 766.105(a)] The Agency will consider loan servicing options and combinations of options to maximize loan repayment and minimize losses to the Agency. The Agency will consider loan servicing options in the following order for each eligible borrower who requests servicing:

- (1) Conservation Contract, if requested;**
- (2) Consolidation and rescheduling or reamortization;**
- (3) Deferral;**
- (4) Write-down; and**
- (5) Current market value buyout.**

C Debt Service Margin

[7 CFR 766.105(b)] (1) The Agency will attempt to achieve a 110 percent debt service margin for the servicing options listed in paragraphs (a)(2) through (4) (subparagraph B) of this section.

(2) If the borrower cannot develop a feasible plan with the 110 percent debt service margin, the Agency will reduce the debt service margin by one percent and reconsider all available servicing authorities. This process will be repeated until a feasible plan has been developed or it has been determined that a feasible plan is not possible with a 100 percent margin.

(3) The borrower must be able to develop a feasible plan with at least a 100 percent debt service margin to be considered for the servicing options listed in paragraphs (a)(1) through (4) (subparagraph B) of this section.

116 Agency Notification of Servicing Decision

A Notification Requirement

[7 CFR 766.106] The Agency will send the borrower notification of the Agency's decision within 60 calendar days after receiving a complete application for loan servicing.

Exception: When a real estate appraisal is involved, the Agency will send the borrower notification of the Agency's decision within 90 calendar days after receiving a complete application.

B Notifying Financially Distressed or Current Borrowers

[7 CFR 766.106 (a)(1)] If the borrower can develop a feasible plan and is eligible for primary loan servicing, the Agency will offer to service the account.

Upon approval by the authorized agency official, or SED if any debt is projected to be forgiven, the borrower will be sent FSA-2519 and FSA-2520 by the authorized agency *--official by hand delivery or by regular mail.

Note: If the account will become 90 days past due within 45 days, these forms should be hand delivered to ensure time for processing.--*

[7 CFR 766.106 (a)(1)] (i) The borrower will have 45 days to accept the offer of servicing. After accepting the Agency's offer, the borrower must execute loan agreements and security instruments, as appropriate.

[7 CFR 766.106 (a)(1)] (ii) If the borrower does not accept the offer, the Agency will send the borrower another notification of the availability of loan servicing if the borrower becomes 90 days past due in accordance with § 766.101(a)(2) (subparagraph 66 A).

[7 CFR 766.106 (a)(2)] If the borrower cannot develop a feasible plan, or is not eligible for loan servicing, the Agency will send the borrower the calculations used and the reasons for the adverse decision.

Upon denial by the authorized agency official, the borrower will be sent FSA-2523 and *--FSA-2524 by hand delivery or by regular mail. A copy of the eDALR\$ report will be--* included. The authorized agency official will consider whether or not it is necessary for both eligibility and feasibility decisions to be made prior to providing the FSA-2523 and FSA-2524 to a borrower who submitted a complete application. In cases where an applicant clearly does not satisfy eligibility requirements, it may be in the borrower's best interest to issue eligibility determinations without a lengthy feasibility analysis being conducted.

[7 CFR 766.106 (a)(2)] (i) The borrower may request reconsideration, mediation and appeal in accordance with 7 CFR parts 11 and 780 of this title.

[7 CFR 766.106 (a)(2)] (ii) The Agency will send the borrower another notification of the availability of loan servicing if the borrower becomes 90 days past due in accordance with § 766.101(a)(2) (subparagraph 66 A).

116 Agency Notification of Servicing Decision (Continued)

C Notifying Borrowers 90 Days Past Due or in Non-Monetary Default

[7 CFR 766.106 (b)(1)] If the borrower can develop a feasible plan and is eligible for primary loan servicing, the Agency will offer to service the account.

Upon approval by the authorized agency official, or SED if any debt is forgiven, the borrower will be sent FSA-2517 and FSA-2518 by the authorized agency official

--by certified mail.--

[7 CFR 766.106 (b)(1)] (i) The borrower will have 45 days to accept the offer of servicing. After accepting the Agency's offer, the borrower must execute loan agreements and security instruments, as appropriate.

--The borrower must return the FSA-2518 accepting the servicing offer prior to closing of the servicing action.--

[7 CFR 766.106 (b)(1)] (ii) If the borrower does not timely accept the offer, or fails to respond, the Agency will notify the borrower of its intent to accelerate the account.

[7 CFR 766.106 (b)(2)] If the borrower cannot develop a feasible plan, or is not eligible for loan servicing, the Agency will send the borrower notification within 15 days, including the calculations used and reasons for the adverse decision, of its intent to accelerate the account in accordance with subpart H (Part 15) of this part, unless the account is resolved through any of the following options:

Upon denial by the authorized agency official, the borrower will be sent FSA-2521 and *--FSA-2522 by the authorized agency official by certified mail. The authorized agency official will consider whether or not it is necessary for both eligibility and feasibility decisions to be made prior to providing the FSA-2523 and FSA-2524 to a borrower who submitted a complete application. In cases where an applicant clearly does not satisfy eligibility requirements, it may be in the borrower's best interest to issue eligibility determinations without a lengthy feasibility analysis being conducted.--*

Note: If a non-monetary default is determined after FSA-2510 is issued, then FSA-2521 will address both the monetary and non-monetary defaults. The reasons for the non-monetary default determination will be detailed on FSA-2521.

129 Extending Maturity Date for Direct Loans with Balloon Payments

A General Requirements and Signatures

[7 CFR 766.120(a)] At a borrower's written request, the maturity date and installment schedule of a direct term loan with a balloon payment may be extended for up to an additional 8 years from the original maturity date using an addendum to the promissory note when the:

The authorized agency official will date stamp the request received from the borrower on the date it was received.

(1) Loan was originally amortized for no more than 15 years with a balloon payment scheduled in the final year of the loan;

Term loans with a balloon installment on a 21-year amortized installment schedule are not eligible for extension of maturity under this paragraph.

(2) Loan has not received PLS, DBSA, or DSA;

(3) Borrower has made all scheduled loan installments in the last 36 months;

(4) Balloon payment is due in less than 12 months;

(5) Borrower does not have an outstanding DBSA or DSA on any loan;

Accounts with DBSA or DSA on any loan are not eligible and will require servicing under Parts 3 and 4 if the borrower is unable to make the final balloon installment plus any set-aside amount.

(6) Borrower has not received PLS on any loan in the last 36 months;

(7) Borrower has only had equal installments scheduled on any direct term loan in the last 36 months;

***--All of the borrower's term loans must have been outstanding for at least 36 months, with equal installments for all loans scheduled for the last 36 months. Annual operating loans closed within the last 36 months do not preclude a borrower from eligibility.**

If the loan being considered for extension of the maturity date began with unequal installments, it may be eligible if the unequal installments were before 36 months from--* the maturity date. This requirement is specific to the loan being considered for extension of the maturity date.

Example: On July 1, 2017, a borrower closed a term loan maturing in 7 years. Scheduled installments included interest only payments for the first 3 installments with remaining payments based on a 12-year amortization. All payments were made by the borrower as scheduled. On May 1, 2024, the borrower requested to extend the maturity date of this loan for an additional 8 years. This loan would meet this requirement since equal amortized installments were made in the final 36 months of the term.--*

129 Extending Maturity Date for Direct Loans with Balloon Payments (Continued)**A General Requirements and Signatures (Continued)**

(8) Borrower's direct loans are fully secured with each loan having a security value of at least 100 percent of the remaining balance of the loan;

The authorized agency official, to whom SED delegated authority to prepare personal property appraisals and real estate evaluations under 1-FLP Exhibit 7, will estimate the remaining market value or any need for additional security before extending the maturity date. The authorized agency official must document the value in FBP, with the basis for the estimates. Real estate evaluations will be completed on FSA-2132.

(9) Borrower is unable to partially or fully graduate;

Graduation reviews will be completed according to the operational review requirements completed according to 4-FLP Part 2.

(10) Borrower has acted in good faith;

(11) Borrower is not otherwise financially distressed or delinquent;

Extension of the maturity date will not be used to circumvent the servicing available under Parts 3 and 4.

(12) Borrower must pay a portion of the interest due on the loan; and

A borrower who is not delinquent must pay as much interest as feasible. The interest payment will be applied to the loan account as a regular payment according to 4-FLP, paragraph 62.

(13) Addendum is signed by the borrower before the original maturity date.

The borrower must sign an addendum to the promissory note for each loan where the maturity date will be extended. FSA-2503 will be used as the addendum to extend the maturity date of the loan. The FSA-2503 must be signed in accordance with state issued supplements for promissory notes based on OGC guidance for the respective state. All liable parties on the promissory note must sign the FSA-2503. Payment of the annual installment amount must be made prior to execution of the FSA-2503.

Note: New promissory notes will not be used to document the extension of maturity date.

--(14) The written request for an extension is received at least 30 days prior to the balloon payment due date.--

(b) In no event may the loan exceed applicable term limits described in this part.

The purpose of this provision is to extend the repayment term up to 15 years from the date of the original FSA-2026 without rescheduling or reamortization. The payment amount included in the FSA-2503 will be the regular installment amount provided on the FSA-2026, with the new maturity date provided.

Part 4 Primary Loan Servicing Programs

Section 1 Consolidation and Rescheduling

131 Co-signers

When a co-signer's non-farm income is required to obtain a feasible cash flow plan, the co-signer will sign the restructured FSA-2026.

132 Eligibility and Loan Terms

A Loans Eligible for Consolidation

[7 CFR 766.107(a)] The Agency may consolidate OL loans if:

- (1) The borrower meets loan servicing eligibility requirements in § 766.104 (paragraph 102);
- (2) The Agency determines that consolidation will assist the borrower to repay the loans;
- (3) Consolidating the loans will bring the borrower's account current or prevent the borrower from becoming delinquent;
- (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 (see 6-CP);
- (6) The loans are not secured by real estate;
- (7) The Agency holds the same lien position on each loan;
- (8) The Agency has not serviced the loans for unauthorized assistance under subpart F (Part 10) of this part; and
- (9) The loan is not currently deferred, as described in § 766.109 (Section 3), or set-aside, as described in subpart B or J (Part 2) of this part. The Agency may consolidate loans upon cancellation of the deferral, DBSA, or DSA (Part 2).

Notes: Consolidating loans eligible for DBSA with loans not eligible for DBSA will cause the loss of eligibility for a future DBSA for loans that are consolidated.

Stimulus bill loans will **not** be consolidated. Loans obligated with stimulus funds must retain their stimulus loan identifier. Stimulus loans are identified by TOA Codes 564 through 583. See DLS Customer Loan Information Section for TOA codes.

--Consolidation should be used whenever possible to preserve loan numbers.--

132 Eligibility and Loan Terms (Continued)**A Loans Eligible for Consolidation (Continued)**

Consolidation can have significant advantages for a borrower and should be appropriately considered for all eligible loans. The user must appropriately select “Yes” in the “consolidation indicator” field in eDALR\$ for all loans eligible for consolidation. eDALR\$ will make the final determination whether consolidation will be used in developing a feasible repayment plan.

System limitations allow no more than 6 loans to be selected for consolidation in eDALR\$. If more than 6 loans need to be consolidated for one borrower, please contact LSPMD for assistance.

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 Consolidation/Reschedule 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.

B Loans Eligible for Rescheduling

***--[7 CFR 766.107(b)] The Agency may reschedule loans made for personal property--* purposes, including OL, CL, SW, RL, EE, or EM if:**

- (1) The borrower meets loan servicing eligibility requirements in §766.104 (paragraph 102);**
- (2) Rescheduling the loans will bring the borrower’s account current or prevent the borrower from becoming delinquent;**
- (3) The Agency determines that rescheduling will assist the borrower to repay the loans;**
- (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 or J (Part 2) of this part. The Agency may reschedule loans upon cancellation of the deferral, DBSA, or DSA (Part 2).**

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

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 personal property 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.

Part 6 Common Requirements and Final Processing**Section 1 Security****211 Additional Security for Servicing Actions****A Requirements**

***--[7 CFR 766.112(a)] If the borrower is delinquent prior to restructuring, an additional amount of security will be required, if available, to reach a 125 percent security margin when the agency is servicing a loan, except as provided in paragraph (b) (subparagraph 211 C) of this section. Total loan security in excess of what is needed to achieve a security margin of 125 percent will only be taken when it is not practicable to separate the security.**

FSA will take the best lien obtainable on all assets the borrower, or entity members in the case of an entity, owns to reach a 125 percent security margin at the time of a primary loan servicing action. If the borrower is an entity, FSA will take the best lien obtainable on all assets owned by the entity to achieve a 125 percent security margin. These assets are--* additional security for the restructured loans and for any FSA-2543 that may be executed according to paragraph 249. An appraisal is not required to take security as a best lien obtainable unless the property will be covered by FSA-2543.

B Allowable Security

Security may include but is not limited to:

- land, mineral rights, water rights, buildings, fixtures, machinery, and equipment
- livestock, livestock products, growing crops, stored crops, inventory, supplies, and accounts receivable
- cash or cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance
- assignments on leases or leasehold interests having mortgageable value, revenues, royalties from mineral rights, patents, copyrights, and pledges of security from third parties.

211 Additional Security for Servicing Actions (Continued)**C Exceptions**

[7 CFR 766.112(b)] The Agency will take the best lien obtainable on assets of the borrower and co-borrowers to meet the 125 percent security margin requirement, except that the following assets will not be considered available to meet this requirement:

(1) When taking a lien on an asset will prevent the borrower from obtaining credit--* from other sources;

Note: Releases of security are processed according to 4-FLP, Section 5.

(2) When an asset could have significant environmental problems or costs as *--described in 1b of this title(1-EQ);--*

(3) When the Agency cannot obtain a valid lien;

(4) When an asset is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation, retirement accounts, educational savings accounts, personal vehicles necessary for family living, household contents, or small equipment such as hand tools and lawn mowers; or

(5) When a contractor holds title to a livestock or crop enterprise, or the borrower manages the enterprise under a share lease or share agreement.

212-225 (Reserved)

230 Appraisals

A Overview of Options to Challenge Appraisals

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

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

B Challenging the Agency Appraisal

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

(1) Obtain a USPAP compliant technical appraisal review prepared by a State Certified General Appraiser of the Agency's appraisal and provide it to the Agency within 90 days of the request for reconsideration or appeal and prior to reconsideration or the appeal hearing;

(2) Obtain an independent appraisal within 90 days of request for reconsideration or *--appeal request and completed in accordance with paragraph(e)(1) or (e)(2) of § 761.7 for real estate or personal property, respectively as part of the request for reconsideration or appeals process. The borrower must:--*

(i) Pay for this appraisal;

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

230 Appraisals (Continued)

B Challenging the Agency Appraisal (Continued)

--[7 CFR 766.115(a)(3)] Use the second appraisal completed under paragraph (a)(2) of this section to negotiate the Agency's appraisal.--

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

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

[7 CFR 766.115(a)(3)] (ii) If the difference between the two appraisals is greater than *--five percent, the borrower may request a third appraisal within 30 days from the date of the second appraisal is provided to the Agency. The Agency and the borrower will--* share the cost of the third appraisal equally. The average of the two appraisals closest in value will serve as the final value.

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

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

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

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

C Continued Processing

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

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

284 Determining Applicant and Property Eligibility (Continued)**B Property Eligibility Requirements**

[7 CFR 766.152(a)] (1) The principal residence and the adjoining land of up to 10 acres, must have served as real estate security for the FLP loan and may include existing farm service buildings. Homestead Protection does not apply if the FLP loans were secured
--only by personal property.--

(3) The proposed homestead protection site must meet all State and local requirements for division into a separate legal lot.

The property must comply with all environmental considerations described in 1-EQ and 2-EQ.

If the site cannot be approved by local officials because of local zoning regulations, homestead protection must be concluded and servicing will continue.

If necessary, FSA grants or retains reasonable easements for ingress, egress, utilities, and water rights for the benefit of the adjoining property.

Note: Manufactured or mobile homes that were taken as FSA security or otherwise reside on FSA security may be eligible to be considered for Homestead Protection. A determination will be made after consultation with OGC and considering whether:

- the home is permanently affixed to the land
- local utilities such as electricity, water, and sewer are in use
- the home is subject to local or state real estate taxes
- the home was included in previous real estate appraisals
- United States Postal Service delivers mail to the address.

284 Determining Applicant and Property Eligibility (Continued)**C Negotiating Eligible Land and Buildings With the Borrower**

[7 CFR 766.152(a)(2)] The applicant may propose a homestead protection site. Any proposed site is subject to Agency approval.

If the authorized agency official does not agree with the proposed size or shape of the property, FSA negotiates the configuration with the borrower. If the borrower and the authorized agency official still cannot agree on the proposed shape and size of the property, the authorized agency official determines the property's configuration and provides appeal rights.

D Surveying Homestead Protection Property

When FSA and the borrower agree on the property's configuration and FSA finds the borrower eligible for homestead protection, the authorized agency official has:

- a licensed surveyor survey the property, if needed
- the property's legal description prepared
- the property lines marked with permanent markers.

The reasonable customary cost of these services will be paid by FSA.

E Appraising Homestead Protection Property

[7 CFR 766.154(e)] The Agency will use an appraisal obtained within 6 months from the date of the application for considering homestead protection. If a current appraisal does not exist, the applicant will select an independent real estate appraiser from a list of appraisers approved by the servicing official.

FSA pays for the appraisal according to 1-FLP, Part 6.

343 Determining Amount of Shared Appreciation Due

A Determining Whether Shared Appreciation Is Due

The authorized agency official will obtain a current appraisal of real estate security covered by a shared appreciation agreement if any of the events listed in paragraph 342 occur.

B Partial Sale of Shared Appreciation Security

[7 CFR 766.202(b)] In the event of a partial sale, an appraisal of the property being sold may be required to determine the market value at the time the SAA was signed if such value cannot be obtained through another method.

If the borrower sells only a portion of the real estate security before the maturity of a shared appreciation agreement, recapture is due on the tract that is sold. FSA may require 1 or more appraisals to determine the amount of recapture that may be due from the partial sale. SED may issue a State supplement to identify the appropriate method to be used based upon the following examples.

Example 1: The borrower has 400 acres of similar farm ground, with no buildings, that secure the shared appreciation agreement. Four years after signing the shared appreciation agreement, the borrower decides to sell 100 acres, 25 percent of the total acres. FSA obtains an appraisal on the entire 400 acres as described in 1-FLP, Part 6. The authorized agency official compares the contributory value of the 100 acres (25 percent of the current appraisal) to the contributory value at the time of the write-down (25 percent of the appraisal done at the time of the write-down).

Example 2: The borrower has 400 acres with a house and outbuildings that secure the shared appreciation agreement. Four years after signing the shared appreciation agreement, the borrower decides to sell 100 acres with no buildings. FSA obtains an appraisal on the 100 acres being sold and on the entire 400 acres. The authorized agency official compares the 2 appraisals and determines the percentage of value of the 100 acres. The authorized agency official then applies this percentage to the appraised value at the time of write-down to determine the value of the 100 acres at the time of the write-down.

Example 3: The borrower has 400 acres that secure the shared appreciation agreement. Four years after signing the shared appreciation agreement, the borrower decides to sell 2 acres in a corner of the farm for a residence. FSA obtains a
 --current appraisal on the 2 acres, and an appraisal of the 2 acres as of the--
 date of the write-down. The authorized agency official then compares the 2 appraisals to determine the amount of appreciation due on the 2 acres.

343 Determining Amount of Shared Appreciation Due (Continued)

C Calculating Shared Appreciation

[7 CFR 766.202(a)] The value of the real estate security at the time of maturity of the SAA (market value) shall be the appraised value of the security at the highest and best use, less the increase in the value of the security resulting from capital improvements added during the term of the SAA (contributory value). The market value of the real estate security property will be determined based on a current appraisal completed *--within the previous 18 months in accordance with § 761.7(b) (1-FLP, Part 6) of this--* chapter, and subject to the following:

[7 CFR 766.202(a)] (1) Prior to completion of the appraisal, the borrower will identify any capital improvements that have been added to the real estate security since the execution of the SAA.

Approximately 6 months before the maturity of the shared appreciation agreement and before the completion of the appraisal, FSA will send FSA-2544 to the borrower by certified mail, return receipt requested. The borrower will have 30 calendar days from receipt to notify FSA if any capital improvements have been added to the security during the term of the shared appreciation agreement. Borrowers who fail to respond with the requested information will be sent FSA-2525. Servicing will continue to acceleration if the information is not provided.

[7 CFR 766.202(a)] (2) The appraisal must specifically identify the contributory value of capital improvements made to the real estate security during the term of the SAA to make deductions for that value.

[7 CFR 766.202(a)] (3) For calculation of shared appreciation recapture, the contributory value of capital improvements added during the term of the SAA will be deducted from the market value of the property. Such capital improvements must also meet at least one of the following criteria:

[7 CFR 766.202(a)(3)] (i) It is the borrower's primary residence. If the new residence is affixed to the real estate security as a replacement for a residence which existed on the security property when the SAA was originally executed, or, the living area square footage of the original residence was expanded, only the value added to the real property by the new or expanded portion of the original residence (if it added value) will be deducted from the market value.

Example: At the time of the write-down the contributory value of a house on the property was \$60,000. The house was destroyed by fire and replaced with a house that cost \$150,000. However, the contributory value of the new house at the time the shared appreciation agreement matured was \$170,000 because of appreciation. The value added to the real property in this case is \$110,000. (\$170,000 value of the new house at maturity – \$60,000 value of the old house at the time FSA-2543 was executed.)

387 Recovering Unauthorized Assistance (Continued)

D Other Unauthorized Assistance Remittance Options

[7 CFR 766.253(a)] (2) If the borrower is unable to repay the entire amount in a lump sum, the Agency will accept partial repayment of the unauthorized assistance within 90 days of Agency notice to the extent of the borrower's ability to repay.

--(3) If the borrower is unable to repay the entire unauthorized amount, the remaining unauthorized portion of the loan will be converted to a Non-program loan under the--
following conditions:

*** * ***

(i) The borrower did not provide false information;

(ii) It is in the interest of the Agency;

(iii) The debt will be subject to the interest rate for Non-program loans;

The borrower must develop a feasible plan which includes the unauthorized assistance amount at NP rates and terms.

(iv) The debt will be serviced as a Non-program loan;

(v) The term of the Non-program loan will be as short as feasible, but in no case will exceed:

(A) The remaining term of the FLP loan;

(B) Twenty-five (25) years for real estate loans; or

***--(C) The life of the security for personal property loans.**

Example: A borrower is determined to have received unauthorized assistance because a closed operating term operating loan exceeded the loan limits by \$25,000. In response to the notification, the borrower is only able to offer \$10,000 in repayment within 90 days. The remaining \$15,000 unauthorized loan amount is converted to a non-program loan.--*

A new FSA-2026 will not be taken. Instead RD Business Center, FLB will be informed of the change by memorandum identifying the loan to be affected, noting the new rates and terms, and referring to the authority in the regulation in this subparagraph. Copies of the memorandum will be attached to FSA-2026 of affected loan and all copies.

387 Recovering Unauthorized Assistance (Continued)**E Borrower Refusal to Pay**

[7 CFR 766.254(b)] If the borrower is able to pay the unauthorized assistance amount but refuses to do so, the Agency will notify the borrower of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

Borrowers who can pay but refuse are in non-monetary default.

F When FSA Pursues Legal Action to Collect Unauthorized Assistance

The authorized agency official will move toward liquidation by notification of the borrower according to Part 3 if:

- the borrower fails to attend the scheduled meeting
- the borrower fails to respond to FSA within 30 calendar days of the date of receipt of *--FSA-2549
- the borrower has not completed the corrective action within 90 calendar days of the date of receipt of FSA-2549.--*

If OIG determines that unauthorized assistance was caused by incomplete or false information, the authorized agency official services the borrower's account and recovers unauthorized assistance according to OIG instructions.

G Processing Any Account Adjustments

The authorized agency official will process any payment made to resolve the unauthorized assistance case as an extra payment according to 4-FLP, subparagraph 63 A.

--388 Providing Equitable Relief*A Equitable Relief**

7 CFR 768.1(a)] If the Agency determines that a borrower is not in compliance with direct FO, OL or EM loan requirements, the Agency may consider equitable relief as specified in this section:

Examples of a borrower not being in compliance with loan requirements include, but are not limited to:

- not being eligible for a loan or loan servicing action that was received
- borrower inability to comply with loan agreements
- borrower inability to make a scheduled loan installments.

Borrower noncompliance may be discovered through docket reviews, routine operational reviews, or other account or security instrument reviews.

B Requirements

[7 CFR 768.1(a)(1)] After determination that a borrower is in noncompliance with loan program requirements, the Agency may provide relief to a borrower if it determined that the borrower:

- (i) Acted in good faith; and**
- (ii) Relied on a material action, advice, or non-action from an Agency official to the detriment of the borrower's operation or the action approved by the Agency official resulted in the borrower becoming noncompliant with the loan program requirements.**

C Determination

[7 CFR 768.1(a)(2) The material action, advice, or response from an Agency official under paragraph (a)(1) (subparagraph 388 B) of this section must be documented, unless the Agency official with authority to grant equitable relief determines that documentation is not reasonably available. Notwithstanding any delegations in this chapter, only the Secretary, FSA Administrator, Deputy Administrator for Farm Loan Programs, or any other official within USDA specifically designated by the Secretary, may make the determination for the Agency to grant equitable relief and must document the basis for that determination.

Relief will not be considered for actions taken outside of FSA's control (implementation of NAD determinations, compliance with court rulings, etc.). Relief will not be considered for accounts or issues which have already received another form of relief under FSA or other USDA programs to resolve the issue or account.--*

388 Providing Equitable Relief (Continued)

D Relief

[7 CFR 768.1(a)(3)] If the borrower meets the requirements in paragraph (a)(1) (subparagraph 388 B) of this section, the Agency may provide to a borrower either or both of the following forms of equitable relief:

- i. The borrower may choose to keep loans or at current rates or other terms received in association with the loan which was determined to be non-compliant;* * ***
- ii. The borrower may receive other equitable relief as the Agency determines to be appropriate**

Relief proposals that include extension or modifications of terms, or retention of unauthorized loans, are preferable to those that result in financial loss to the agency.

An example of relief being granted would be in the case of the agency incorrectly determining a borrower to be eligible for loan assistance and later determining that an error had been made.

After reviewing other potential options, it is determined that the borrower cannot repay the loan in full, and their operating plan does not support a change to NP rates and terms. Equitable relief can be considered and granted to allow the borrower to continue on with the loan as an eligible borrower.

Non-cash credit is a form of other equitable relief for the loan that may be used as determined to be appropriate.

An example of relief not being granted would be in the case of a borrower requesting relief from their debt because of delayed processing of their loan request. Delayed funding resulted in the operation not being able to fully realize profits originally projected in the plan. In this instance, relief would not be granted because the borrower did not rely on FSA documented advice or actions to decide to continue with the operation despite delayed FSA funding. Additionally, the Agency has other potential remedies (PLS servicing) that can be used to return the account to good standing.

E Conditions

[7 CFR 768.1(a)(4)] As a condition of receiving relief, the Agency may require the borrower to take actions to remedy the noncompliance, provided the borrower agrees those actions do not adversely affect the long-term viability of the borrower's operation.

Attempts must be made to first resolve unauthorized assistance according to 5-FLP, paragraph 387 before consideration of equitable relief.

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 personal property--* 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 personal property 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 personal property 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.

463 Closing the Sale of Real Property (Continued)**B Release of Liens**

If the proceeds pay the borrower's FSA debts in full, FSA will release its liens and return the appropriate documents to the borrower according to 4-FLP, paragraph 65.

C Remaining Balance

[7 CFR 766.352(a)(5)] If an unpaid loan balance remains after the sale, the Agency will continue to service the loan in accordance with part 761, subpart F of this chapter and part 3 of this title. (7-FLP, Part 12)

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.

464 Voluntary Liquidation of Personal Property**A Methods of Voluntary Liquidation**

[7 CFR 766.352(b)] If the borrower complies with paragraph (a) (paragraphs 461 *--through 463) of this section, the borrower may sell personal property security by:--*

[7 CFR 766.352(b)] (1) public sale if the borrower obtains the agreement of lienholders as necessary to complete the public sale; or

For a public sale, the borrower must assist the authorized agency official in completing FSA-2571 and revising FSA-2040. FSA-2571 can be completed to give FSA custodial possession (not ownership) of the collateral or as an agreement for the borrower to sell the property.

[7 CFR 766.352(b)] (2) private sale if the borrower:

(i) Sells all of the security for not less than the market value;

(ii) Obtains the agreement of lienholders as necessary to complete the sale;

(iii) Has a buyer who is ready and able to purchase the property; and

(iv) Obtains the Agency's agreement for the sale.

For a private sale, the borrower must assist the authorized agency official in completing FSA-2571 and FSA-2040. The authorized agency official must document the reasons a public sale is not in FSA's best interest. If the account is in default, servicing will continue without delay.

--464 Voluntary Liquidation of Personal Property (Continued)--**B Lien Search**

The authorized agency official will obtain a lien search on the security being sold unless accurate and complete lien information is 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 will pay the cost of all lien searches. See 3-FLP, Part 16 on conducting a lien search. SED may issue a State supplement as appropriate.

C Appraisal

FSA will appraise the property according to 1-FLP, Part 6 if the borrower pursues a private *--sale. FSA will not generally appraise personal property to be sold at public auction.--*

D Sales That Do Not Satisfy the Borrower's Debt

If the estimated net sale proceeds of the property will not fully pay a borrower's secured debts, but the sale price is at least equal to the market value of the security, the authorized agency official may approve the sale. If the borrower submits a debt settlement application with the sale request, the authorized agency official will forward the file to SED with the documentation required by 7-FLP, Part 12.

E Approving the Sale

The authorized agency official may attend the sale at their discretion and must contact the auctioneer or clerk of the sale to ensure proper distribution of the sale proceeds.

F Rejecting the Sale Request

If the authorized agency official does not approve the request for sale, the borrower will be notified in writing of the reasons for not approving the sale and offered appeal rights according to 1-APP.

517 Personal Property Conveyance Application Requirements (Continued)**A Application (Continued)**

[7 CFR 766.354(a)] (6) Complete debt settlement application in accordance with part 761, subpart F of this chapter (7-FLP, Part 12) before or in conjunction with the voluntary conveyance offer if the value of the property to be conveyed is less than the FLP debt.

The borrower must complete and submit FSA-2732 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security will fully satisfy the FSA debt.

The debt settlement application will be processed according to 7-FLP, Part 12. The applications for voluntary conveyance and debt settlement will normally be approved or denied together; however, the voluntary conveyance application can be approved while denying the debt settlement application if SED believes it to be in the Government's best interest.

***--B Incomplete Applications**

Process incomplete applications according to paragraph 10.--*

518 Additional Requirements

A FSA Actions After Receiving Offer

--[7 CFR 766.354(b)] The Agency will accept conveyance of personal property only if:--

[7 CFR 766.354(b)] (1) The borrower has made every possible effort to sell the property voluntarily;

This includes consideration of the execution of FSA-2571.

--[7 CFR 766.354(b)] (2) The borrower can convey the personal property free of other liens;--

- The authorized agency official will conduct a lien search to verify that FSA is the only lienholder on the personal property.
- The authorized agency official conducts or obtains a personal property inspection and appraisal. The inspection and appraisal are required to account for all personal property security listed in the borrower's offer and to determine the market value of the property. The authorized agency official will conduct the appraisal according to 1-FLP, Part 6 as appropriate.
- The authorized agency official will determine the likely recovery value to FSA and whether the conveyance will satisfy the borrower's account. To calculate the recovery value, the authorized agency official will subtract all estimated expenses, including acquisition, preparation, and auction costs, from the appraised market value of FSA security.

The authorized agency official will document that approval of the voluntary conveyance is in FSA's best interest.

***--[7 CFR 766.354(b)] (4) The borrower conveys all personal property securing the--*
Agency loan; and**

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

[7 CFR 766.354(b)] (5) The borrower has received prior notification of the availability of loan servicing in accordance with subpart C (Part 3) of this part.

The authorized agency official will document that the borrower received the proper primary loan servicing notices according to paragraph 66.

520 Closing the Personal Property Conveyance**A Charging the Borrower's Account**

[7 CFR 766.354(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with the conveyance in accordance with § 765.203 (4-FLP, Part 6) of this chapter.

B Crediting the Borrower's Account

[7 CFR 766.354(c)(2)] The Agency will credit the borrower's account in the amount of *--the market value of the personal property.--*

If the appraised market value of the personal property is equal to or greater than the borrower's debt, the conveyance satisfies the account. The authorized agency official will stamp the notes "Satisfied by Surrender of Security and Borrower Released from Liability" and send them to the borrower.

If the appraised market value of the security is less than the borrower's debt, the authorized agency official will credit the account by the market value of the personal property.

If FSA-2732 submitted according to subparagraph 517 A was:

- acceptable to FSA, the authorized agency official will process the approved debt settlement for any remaining loan balance
- denied and all appeal rights have been exhausted, the authorized agency official will service the debt through offset and referral to Treasury as set forth in 7-FLP.

C Final Processing

After FSA acquires the property, the authorized agency official will:

- complete a 3E transaction in ADPS as an advice of property acquired transaction

Note: The date of acquisition is the date the authorized agency official takes possession of personal property security after determining all conditions are met.

- complete a 5L transaction in ADPS as an acquired property maintenance transaction

Note: The date of acquisition is the date the authorized agency official takes possession of personal property security after determining all conditions are met.

- prepare an inventory account file according to paragraph 721.

521-530 (Reserved)

779 Conveying Easements, Rights of Way, and Other Interests in Inventory Property (Continued)**D Disposal of Other Interests in Inventory Property**

[7 CFR 767.154(c)] (1) If applicable, the Agency will sell mineral and water rights, mineral lease interests, mineral royalty interests, air rights, and agricultural and other lease interests with the surface land except as provided in paragraph (b) (subparagraph 779 C) of this section.

(2) If the Agency sells the land in separate parcels, any rights or interests that apply to each parcel are included with the sale.

(3) The Agency will assign lease or royalty interests not passing by deed to the purchaser at the time of sale.

(4) Appraisals of property will reflect the value of such rights, interests, or leases.

The authorized agency official notifies the lessee or buyer of the assignment. FSA provides a copy of this notification to the purchaser.

E Conveyance to Public Bodies or Utilities

FSA must receive adequate consideration for the inventory property being released or the conveyance must be for a purpose that enhances the value of the real property.

If an appraisal is required as a result of the conveyance, FSA must consider relative property values, including any appropriate adjustment to the property's market value.

780 Selling Personal Property

A General Policy

FSA sells inventory personal property as expeditiously as possible.

B Public Auctions

[7 CFR 767.155(a)(1)] The Agency will use sealed bid or established public auctions for selling personal property. The Agency does not require public notice of sale in addition to the notice commonly used by the auction facility.

FSA sells personal property at an established public auction that is widely advertised, held on a regular basis at the same facility, or both. No additional advertising is required by FSA. This is the preferred sale method for most personal property. Detailed procedures for selling property at an auction are described in paragraph 783. If the authorized agency official has reason to believe the property is not suitable for sale at a public auction or the property is not sold at auction, the authorized agency official should consult with SED for guidance on how to proceed.

C Concurrent Sale of Real and Personal Inventory Property

[7 CFR 767.155(a)(2)] The Agency may sell personal property, including fixtures, concurrently with inventory real estate if, by doing so, the Agency can obtain a higher aggregate price. The Agency may accept an offer for personal property based upon the combined final sales price of both the personal property and real estate.--

FSA may sell personal property with real property if FSA will obtain a higher aggregate price. The authorized agency official distributes proceeds from a joint sale among the applicable loan accounts based on the value of the property sold. The authorized agency official documents justification for a concurrent sale through an appraisal.

D Agency Financed Sales

***[7 CFR 767.155(b)] The Agency may finance the purchase of personal property if the Agency has direct or guaranteed OL loan funds available and all applicable loan making requirements are met.**

FSA transfers title to the security by completing FSA-2596.

After the authorized agency official closes the transaction and FSA conveys the property, the authorized agency official processes the sale according to 3-FI.

Part 22 Selling and Leasing Inventory Real Property With Special Characteristics**Section 1 Inventory Property Containing Important Environmental Resources****801 Overview****A General Policy**

FSA protects and conserves inventory property containing important environmental resources through conservation easements, conservation transfers, or both.

B Determining Whether Inventory Real Property Contains Wetlands or Highly Erodible Lands

FSA contacts NRCS to identify wetlands and highly erodible land. The authorized agency official requests a certified wetland determination from NRCS of **both** agricultural and nonagricultural land.

***--Note:** These determinations are considered non Clean Water Act determinations and are normally provided by NRCS on form NRCS-CPA-026E.--*

C Determining Whether Inventory Real Property Contains Other Important Environmental Resources

See 1-EQ for guidance on identifying property containing all important environmental resources other than wetlands and highly erodible land. FSA uses the same process to identify environmental and cultural impacts and perform due diligence before making or servicing direct or guaranteed loans and to identify important environmental resources before leasing or selling inventory property.

802 Leasing or Selling Inventory Property With Important Environmental Resources**A General Requirements**

If FSA determines that inventory property contains important environmental resources, FSA may lease or sell the property according to the following provisions:

[7 CFR 767.201(e)] (1) Lessees and purchasers receiving Agency credit must follow a conservation plan developed with assistance from NRCS.

(2) Lessees and purchasers of real property with important resources or real property interests must allow the Agency or its representative to periodically inspect the real property to determine if it is being used for conservation purposes.

--See FSA-2598 and FSA-2599 for guidance on preparing the deed. SEC consults the--
National Office as needed.

803 Wetland Conservation Easements**A General Policy**

***--[7 CFR 767.201] In addition to the requirements established in part 1b of this title,--*
the following apply to inventory property with important resources:**

(a) The Agency will establish permanent wetland conservation easements to protect and restore certain wetlands that exist on inventory property prior to the sale of such property, regardless of whether the sale is cash or credit.

If possible, FSA should begin reviewing the property for potential easements before FSA takes the property into inventory to complete the process before the 135-calendar-day statutory time requirement for selling inventory property expires.

B Property on Which Easements Must Be Established

[7 CFR 767.201(a)(1)] The Agency establishes conservation easements on all wetlands or converted wetlands located on inventory real property that:

**(i) Were not considered cropland on the date the property was acquired by the Agency;
and**

(ii) Were not used for farming at any time during the 5 years prior to the date of acquisition by the Agency.

(A) The Agency will consider property to have been used for farming if it was used for agricultural purposes including, but not limited to, cropland, pastures, hayland, orchards, vineyards, and tree farming.

(B) In the case of cropland, hayland, orchards, vineyards, or tree farms, the Agency must be able to demonstrate that the property was harvested for crops.

(C) In the case of pastures, the Agency must be able to demonstrate that the property was actively managed for grazing by documenting practices such as fencing, fertilization, and weed control.

803 Wetland Conservation Easements (Continued)**C Determining the Size and Boundaries of Easements**

After FSA has determined whether the wetlands or converted wetlands were used for farming, FSA contacts FWS.

- FSA consults with FWS to determine the size and boundaries of the easement area required to protect the identified wetlands.
- FSA requests FWS to make recommendations for protecting important environmental resources such as threatened or endangered species during this review.
- FSA requests FWS to make a determination within 30 calendar days. FWS may take longer if threatened or endangered species are involved.

FSA describes easement areas according to State or local law. If State or local law does not require a survey, the easement area can be described by rectangular survey, plat map, or other recordable methods.

D Providing Access to Other Portions of the Property

[7 CFR 767.201(a)(2)] The wetland conservation easement will provide for access to other portions of the property as necessary for farming or other uses.

E Easement Management

FWS is responsible for easement management and administration unless either:

- the wetland easement area is an inholding in Federal or State property and the Federal or State entity agrees to assume management responsibilities
- a State fish and wildlife agency having counterpart responsibilities to FWS is willing to assume easement management responsibilities
- FSA assumes management responsibilities because no other agency is willing to do so.

The agency that assumes easement management is responsible for the costs associated with easement management and administration.

Section 2 Inventory Property Located in Special Hazard Areas**821 Selling or Leasing Inventory Property Located in Special Hazard Areas****A General Policy**

FSA takes necessary precautions with inventory property located in special hazard areas to minimize FSA liability under the law and to minimize risk to human health and the environment. FSA complies with Federal, State, and local laws about the management and sale of property located in special hazard areas.

B Types of Special Hazard Areas

[7 CFR 767.202(a)] The Agency considers the following to be special hazard areas:

(1) Mudslide hazard areas;

(2) Special flood areas; and

(3) Earthquake areas.

C Determining Whether Inventory Property Is Located in a Special Hazard Area

See 1-EQ for guidance on identifying property located in special hazard areas.

D Notifying Prospective Purchasers and/or Lessees of Hazards and Use Restrictions

FSA informs prospective purchasers and lessees at the time of the first inquiry and in any notice of public sale that the property is located in a special hazard area and therefore contains possible use restrictions. For a property being sold, FSA prepares and delivers Exhibit 78 to the prospective purchaser at the time the purchaser signs the bid or offer.

E Using Real Estate Brokers and Auctioneers to Sell Inventory Property

If engaged by FSA to sell inventory property, real estate brokers or auctioneers must notify prospective purchasers in writing that the property is located in a special hazard area and specify any use restrictions resulting from the property's location. When sending a notice to the broker or auctioneer listing a property for sale, the authorized agency official attaches Exhibit 78 for the broker or auctioneer to use as a guide in meeting this requirement.

821 Selling or Leasing Inventory Property Located in Special Hazard Areas (Continued)

F Establishing Use Restrictions on Inventory Property Located in Special Hazard Areas

[7 CFR 767.202(b)] The Agency will use deed restrictions to prohibit residential use of properties determined to be unsafe in special hazard areas.

--See FSA-2598 and FSA-2599 for guidance on preparing the deed and easement. SEC will-- consult the National Office as needed.

[7 CFR 767.202(c)] The Agency will incorporate use restrictions in its leases of property in special hazard areas.

Any additional restrictions placed in the lease will be reviewed by the Regional OGC.

822-835 (Reserved)

Section 3 Inventory Real Property Containing Environmental Risks**836 Overview****A General Policy**

FSA will take necessary precautions with inventory property containing environmental risks to minimize FSA liability under the law and to minimize risk to human health and the environment. FSA will comply with Federal, State, and local laws about the management and sale of property with environmental risks.

B Definition of Environmental Risks

FSA considers the following to be environmental risks:

- hazardous waste
- petroleum products and underground storage tank systems
- medical waste
- lead-based paints
- asbestos.

C Determining Whether Inventory Property Contains Environmental Risks

--See 2-EQ for guidance on identifying property containing environmental risks.--

837 Environmental Risk Management

A General Policy

FSA will comply with all applicable Federal and State laws.

FSA will consult with the appropriate environmental regulatory authority to determine State requirements.

When FSA will advertise the property for sale, the sales price of the property is the “as improved value” as determined by an appraisal.

When the property is being sold back to the former owner-borrower, FSA will not undertake corrective action.

See paragraphs 838, 839, and 840 for guidance on remediation of specific environmental risks.

B Notifying Prospective Purchasers and/or Lessees of Environmental Risks and Establishing Use Restrictions

FSA informs prospective purchasers at the time of first inquiry and in any notice of public sale that the property contains environmental risks and, therefore, may be subject to possible use restrictions.

--See FSA-2598 and FSA-2599 for guidance on preparing the deed and easement. SEC-- consults the National Office as needed.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists the forms referenced in this handbook.

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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
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FSA-2091	Notice of Incomplete Application (Not for Loan Making, PLS, Transfer and Assumption, Subordination, and Debt Settlement Applications, or Operational and Graduation Reviews)		10
FSA-2092	Notice of Application Withdrawal (Not for Loan Making, PLS, Transfer and Assumption, Subordination, and Debt Settlement Applications, or Operational and Graduation Reviews)		10
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Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

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FSA-2518	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 172
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Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
*--FSA-2564	Notification Of Options Available To The Tribe Concerning Existing Farm Service Agency Loan		537
FSA-2565	Notification To A Tribe Of An American Indian Borrower's Request To Have A Farm Service Agency Loan Assigned To The Tribe		537
FSA-2566	Notification To An American Indian Borrower Of Acceptance Of A Farm Loan Assignment Request		537
FSA-2567	Notification To An American Indian Borrower of Farm Loan Assignment Request Denial		537
FSA-2568	Notification Of Options Available to The Tribe		784--*
FSA-2569	Warranty Deed		496-499
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FSA-2571	Agreement for Voluntary Liquidation of Personal Property		464, 465, 516, 518, 581
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--FSA-2573	Notice To Borrower's Attorney Regarding Loan Servicing Options		401, 402, 405, 407--
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--*FSA-2577	Notice To Borrowers Who Did Not Reaffirm FSA's Debt Prior To Receiving A Chapter 7 Discharge		407
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Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

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FSA-2592	Invitation, Bid and Acceptance Sale of Real Property by the United States		776, 778, 782
FSA-2593	Standard Sales Contract Sale of Real Property by the United States		778
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Definitions of Terms Used in This Handbook

Abandoned Security Property

Abandoned security property is security property that a borrower is not occupying, is not in possession of, or has relinquished control of and has not made arrangements for its care or sale.

Acceleration

Acceleration is a demand by a lender for immediate repayment of the entire balance of a debt if the promissory note or security instruments are breached. When FSA accelerates an account, the entire loan balance is due in 30 calendar days.

Accrued Deferred Interest

Accrued deferred interest is unpaid interest from past due installments posted to a borrower's loan account.

Active Borrower

An **active borrower** is a borrower who has an outstanding account in the records of the Finance Office, which may include collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without borrower being released from liability or where liquidation did not satisfy the indebtedness.

Additional Security

Additional security is property which provides security in excess of the amount of security value equal to the loan amount.

Adjustment

Adjustment is a form of settlement that reduces the financial obligation to the Agency, conditioned upon the completion of payment of a specified amount at a future time. An adjustment is not a final settlement until all payments have been made under the agreement.

* * *

Adversary Proceeding

An **adversary proceeding** is a lawsuit within a bankruptcy case.

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

Agency is the Farm Service Agency (FSA), including its employees, State and area committee members, and any successor agency.

Agency Official

Agency official is any employee within the agency. This term is used when the action does not require inherent or delegated authority.

Applicant

Applicant is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

***--Appraisal**

Appraisal means a written statement independently and impartially prepared, setting forth an opinion as to the value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information. Real estate appraisals must comply with the Uniform Standards of Professional Appraisal Practice (USPAP).--*

Approval Official

Approval official is the specific employee who has the authority to approve or deny the described action.

Assistance

Assistance is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

Assumption

Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Auction

An auction is a public sale in which property is sold to the highest bidder in open verbal communication.

Definitions of Terms Used in This Handbook (Continued)**Authorized Agency Official**

Authorized agency official is an employee who has either inherent or delegated authority to complete the described action.

Automatic Stay

Automatic stay refers to the prohibition of collection activities against the debtor or efforts to obtain possession of the debtor's property or security interest in the debtor's property during the course of bankruptcy.

Bankruptcy Closed

Bankruptcy closed usually refers to when the bankruptcy plan has been paid as planned, the security has been fully accounted for or remanded back to the creditor, and proceeds distributed according to the bankruptcy. However, the bankruptcy is not closed until the bankruptcy judge closes the case with an order. Normally, collection activities or attempts to sell or gain possession of security cannot resume until the bankruptcy is closed. States should consult with OGC if bankruptcies are not closed in a timely manner after the discharge of debt.

Definitions of Terms Used in This Handbook (Continued)

Certified Mail

Certified mail is a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery.

*--Notes: Certified mail service provides the following:

- mailing receipt as confirmation an item was sent a unique identifier (tracking number) for the mail piece
- requires a signature from the addressee.

Return receipt is an additional feature that provides the sender with proof of delivery (the recipient's signature along with information about the delivery address, if different, and date and time of delivery). Return Receipt service is available electronically or by paper utilizing PS Form 3811.

Return receipt must be purchased at the time of mailing and is required to be used to track all letters and notifications requiring certified mail. Either method (electronic or paper) is acceptable.--*

Chapter 7

A Chapter 7 bankruptcy involves liquidation of the debtor's assets. The proceeds from liquidation are applied to the court-allowed debt.

Chapter 11

A Chapter 11 bankruptcy is a business reorganization form of bankruptcy. The debtor has an exclusive right to file a reorganization plan within 120 calendar days after filing for bankruptcy. After the 120-calendar-day period, the debtor loses the exclusive right to file a reorganization plan, and others may file a plan. This chapter is generally discharged at closing. The plan does not have to be concluded within a specific timeframe.

Chapter 12

A Chapter 12 bankruptcy provides special debt repayment relief for family farmers and family fishermen. This chapter is targeted to family farmers with 50 percent of gross income from farming. The farmer's debt must not exceed \$3.237 million and 80 percent of the farmer's debts must originate from farming. The debtor must file a plan within 90 calendar days after the First Meeting of Creditors. The court determines the point of discharge (usually at the end of the third or fifth year). The reorganization plans must be paid out in 5 years.

Chapter 13

A Chapter 13 bankruptcy involves reorganization for wage-earners. The debtor must have regular income. A portion of that income will be set aside for distribution to creditors by the Trustee. The plan is generally filed at time of petition and must be paid out in 5 years. The court determines the point of discharge, which is usually at the end of the third or fifth year.

Definitions of Terms Used in This Handbook (Continued)

* * *

Civil Action

Civil action is a court proceeding to protect the Agency's financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Civil action may include obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure.

Closing Agent

Closing agent is the attorney or title insurance company selected by the applicant and approved by the Agency to provide closing services for the proposed loan or servicing action. Unless a title insurance company provides loan closing services, the term "title company" does not include "title insurance company."

Coastal Barrier

Coastal barrier is an area of land identified as part of the national Coastal Barrier Resources System under the Coastal Barrier Resources Act of 1980.

Collateral

Collateral (or security) is property pledged as security for a loan to ensure repayment of an obligation.

Compromise

Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

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

--Graduation means the payment in full of all direct FLP loans, except for CLs, made for--
operating, real estate, or both purposes by refinancing with other credit sources either
with or without an Agency guarantee.

Guaranteed Loan

Guaranteed loan is a loan made and serviced by a lender for which the Agency has entered into a Lender's Agreement and for which the Agency has issued a Loan Guarantee. This term also includes guaranteed lines of credit except where otherwise indicated.

Hazardous Waste

Hazardous waste is solid waste or the combination of solid and other waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or serious illness when improperly treated, stored, transported, disposed of, or otherwise managed. Refer to 40 CFR § 261.3 for the regulatory definition of a hazardous waste and 40 CFR § 261.4 for waste material excluded from the definition of hazardous waste.

Homestead Protection

Homestead protection is the previous owner's right to lease with an option to purchase the principal residence and up to 10 acres of adjoining land which secured an FLP direct loan.

Important Resources

Important resources include wetlands, highly erodible lands, floodplains, historic sites, archaeological sites, paleontological sites, endangered, threatened, or critical habitats, wild and scenic rivers, coastal barriers resource systems, natural landmarks, sole source aquifer recharge areas, and important farmland and rangeland.

Definitions of Terms Used in This Handbook (Continued)**Inaccurate Information**

Inaccurate information is incorrect information provided by an applicant, borrower, lender, or other source without the intent of fraudulently obtaining benefits.

Indian Reservation

Indian reservation is all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.

Ineligible Borrower

An **ineligible borrower** is a borrower who is not eligible for direct program loans, but may be able to assume loans on a nonprogram basis.

Note: Not all ineligible borrowers may be NP borrowers.

Ineligible Terms

Ineligible terms are credit terms offered for the convenience of the Government to facilitate sales. Ineligible terms are more stringent than terms offered under the Agency's loan programs. These terms are applicable when the purchaser does not meet program eligibility requirements. Loans made on ineligible terms are classified as nonprogram assistance and are serviced accordingly.

Inventory Property

--Inventory property is real estate or personal property and related rights that formerly--
secured an FLP loan and to which the Federal Government has acquired title.

Joint Financing Arrangement

Joint financing arrangement is an arrangement in which two or more lenders make separate loans simultaneously to supply the funds required by one applicant.

Definitions of Terms Used in This Handbook (Continued)**Judgment Account**

A judgment account is an account established by a lender after a foreclosure judgment is obtained through a legal process. The account is established to accrue interest and other fees or costs according to the judgment order.

Junior Lien

A junior lien is a lien that has been filed behind, or is otherwise subordinate to, another lien on the same item of security.

Lien

***--Lien is a legally enforceable claim against real or personal property of another obtained--* as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.**

Limited Resource Rate

Limited resource interest rate is an interest rate normally below the Agency's regular interest rate, which is available to applicants unable to develop a feasible plan at regular rates and are requesting:

- (1) FO or OL loan assistance under part 764 of this title; or**
- (2) Primary loan servicing on an FO, OL, or SW loan under part 766 of this title.**

Liquidated

Liquidated is the completed act of selling security pledged as collateral.

Liquidation

Liquidation is the act of selling security for recovery of amounts owed to the Agency or lender.

Liquidation begins when no further assistance will be given; and includes instituting civil suit against a borrower to recover security or Economic Opportunity property or against third parties to recover security or its value or to recover amounts owed to the Agency; filing claims in bankruptcy or similar proceedings or in probate or administrative proceedings.

Definitions of Terms Used in This Handbook (Continued)**Liquidation Expenses**

Liquidation expenses are the costs of an appraisal, due diligence evaluation, environmental assessment, outside attorney fees, and other costs incurred as a direct result of liquidating the security for a direct or guaranteed loan. Liquidation expenses do not include internal Agency expenses for a direct loan or in-house expenses for a guaranteed loan.

Loan Agreement

Loan Agreement is a contract between the borrower and the lender that contains certain lender and borrower agreements, conditions, limitations, and responsibilities for credit extension and acceptance.

Loan Servicing Programs

Loan servicing programs include any primary loan servicing program, conservation contract, current market value buyout, and homestead protection.

Market Value

***--Market value** means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (i) The buyer and seller are typically motivated;
- (ii) Both parties are well informed or well advised, and acting in what they consider to be their own best interests;
- (iii) A reasonable time is allowed for exposure in the open market;
- (iv) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- (v) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.--*

Definitions of Terms Used in This Handbook (Continued)**Normal Income Security**

Normal income security is all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.

Note

A note is written evidence of indebtedness, such as a promissory note, or assumption agreement.

Notification of Meeting of Creditors

A Notification of Meeting of Creditors is usually the first notice to a creditor that a bankruptcy has been filed. It allows opportunity for creditors to establish their claims against the debtor and preserve their interest in security, as applicable. It provides the date by which the claim must be filed.

Office of the General Counsel (OGC)

Office of the General Counsel (OGC) is the OGC of the U.S. Department of Agriculture. Unless otherwise indicated, OGC refers to the Regional Attorney or Attorney-in-Charge in an OGC Field Office.

Operator

Operator is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

Note: Operators include borrowers who obtained individual loans and later formed an operating only entity with a relative. If the member with the individual loan owns at least 50 percent of the operating entity, the individual meets the definition of operator for loan servicing purposes.

Definitions of Terms Used in This Handbook (Continued)

Operator (Continued)

Example: An individual obtains an FO and later forms an operating-only entity with a relative and obtains an OL for the same operation. The individual then needs servicing for the individual FO. In these cases, if the individual owns at least 50 percent of the operating entity, the definition of operator is met.

Borrowers who obtained individual loans and later formed an operating-only entity with a non-relative must have the entity assume the debt to be eligible for loan servicing, as provided in 4-FLP, subparagraph 248 C. However, transfer of the collateral to the entity is not required.

In either of these circumstances the operating entity must have their own unique tax ID number.

Participation

Participation is a loan arrangement where a primary or lead lender is typically the lender of record but the loan funds may be provided by 1 or more other lenders due to loan size or other factors. Typically, participating lenders share in the interest income or profit on the loan based on the relative amount of the loan funds provided after deducting the servicing fees of the primary or lead lender.

Past Due

Past due is when a payment is not made by the due date.

*--Personal Property Security

Personal property security is property that may consist of, but is not limited to: Crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, personal property mortgages, and other security instruments.--*

Petition in Bankruptcy

A petition in bankruptcy is a document filed in Bankruptcy Court that formally begins the bankruptcy process. The filing of the petition in bankruptcy invokes the automatic stay.

Plan of Reorganization

A plan of reorganization is a plan submitted by the debtor that outlines how the debtor intends to preserve security interests and plans to repay creditors and terms of performance. This process may be repeated until agreement of the parties is reached.

Definitions of Terms Used in This Handbook (Continued)**Post-Acquisition Homestead Protection**

Post-acquisition homestead protection is when a borrower applies for homestead protection after FSA obtains title to the real estate security for the borrower's loan.

Post-Deferral Plan

A Post-Deferral Plan is a plan projecting the borrower's operations for the year following the deferral period.

Potential Liquidation Value

Potential liquidation value is the amount of a lender's protective bid at a foreclosure sale.

--Potential liquidation value may be determined by an independent appraiser using--
comparables from other forced liquidation sales.

Pre-Acquisition Homestead Protection

Pre-acquisition homestead protection is when a delinquent borrower applies for homestead protection and it appears that a feasible plan to address the delinquency cannot be developed through primary loan servicing. The Authorized Agency Official begins processing the borrower's request but does not approve homestead protection until FSA obtains title to the property.

Present Value

Present value is the present worth of a future stream of payments discounted to the current date.

Primary Loan Servicing Programs

Primary loan servicing programs means:

- (i) Loan consolidation and rescheduling, or reamortization;
- (ii) Interest rate reduction, including use of the limited resource rate program;
- (iii) Deferral;
- (iv) Write-down of the principal or accumulated interest; or
- (v) Any combination of paragraphs (i) through (iv) of this definition.

Prior Lien

A prior lien is a lien that is recorded in front of, or is otherwise superior to, an FSA lien on the same security. The individual or entity that has filed this lien is the prior lienholder.

Definitions of Terms Used in This Handbook (Continued)**Program Loans**

Program loans include CL, FO, OL, and EM. In addition, for loan servicing purposes the term includes existing loans for the following programs no longer funded: SW, RL, EE, ST, and RHF.

Program Property

Program property is inventory property that can be used to effectively carry out the objectives of their respective loan programs with financing through that program.

Proof of Claim

A Proof of Claim is a legal document filed with the bankruptcy court that indicates a security interest on the proof of claimant. The court uses Proof of Claims to establish priority of claims, necessity for adjustment of debt and repayment of plans. A proof of claim is filed through OGC and provides information regarding FSA debt related security and instruments.

Protective Advance

A **Protective advance** is an advance made by the Agency or a lender to protect or preserve the collateral itself from loss or deterioration. A protective advance may be used for purposes, including but not limited to the following:

- delinquent taxes
- annual assessments
- ground rents
- hazard or flood insurance premiums against or affecting the collateral
- harvesting costs
- other expenses needed for emergency measures to protect the collateral.

Reaffirm Debt

To reaffirm debt requires the debtor's voluntary re-obligation of debt in its original form.

Reamortization

Reamortization is the rewriting of rates or terms, or both, of a loan made for real estate purposes.

Definitions of Terms Used in This Handbook (Continued)

Recapture

Recapture is the amount that the Agency or a lender is entitled to recover from a direct or guaranteed loan borrower in consideration for the Agency or the lender writing down a portion of their direct or guaranteed loan debt when that loan was secured by real estate and that real estate increases in value. Recapture also includes the act of collecting shared appreciation.

Reconsideration

Reconsideration is a meeting with the Authorized Agency Official that is offered to a borrower who has received an adverse decision. The borrower may present new information at this meeting.

Recoverable Cost

Recoverable cost is a loan cost expense chargeable to either a borrower or property account.

Redemption Right

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

Related by Blood or Marriage

Related by blood or marriage is being connected to one another as husband, wife, parent, *--child, brother, sister, uncle, aunt, grandparent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, nephew, niece, cousin, grandson, granddaughter, or the spouses of any of those individuals. “Related by blood or marriage” is used for consistency with a requirement in the CONACT. It has the same meaning as the word “relative” for the Farm Loan Programs regulations in this Chapter.

Relative

Relative means the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of any of those individuals. Relative has the same meaning as the term “related by blood or marriage” for the Farm Loan Programs regulations in this Chapter.--*

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

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

Rescheduling

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

Restructuring

Restructuring is the process of changing the terms of a debt through rescheduling, reamortization, deferral, write-down, or a combination thereof.--*

Right-of-Way

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

Sealed Bid Sale

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

Security

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

Security Instrument

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

Security Value

*--**Security value** is the market value of real estate or personal property (less the value of--* any prior liens) used as security for an Agency loan.