

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency

Washington, DC 20250

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

Amendment 9

Approved by: Deputy Administrator, Farm Loan Programs

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Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 C has been amended to provide additional clarification for issuing State supplements.

Subparagraph 3 G has been added to provide sources for forms not provided by FSA.

Subparagraph 41 A has been amended to include CL's on the list of loans eligible for DSA.

Subparagraphs 66 A, 83 D, 84 B, 84 D, 116 B, 116 C, 126 B, 126 C, 516 A, 537 E, and 537 F have been amended to reference authorized agency official.

Subparagraph 131 B has been amended to include CL's as eligible for rescheduling.

Subparagraph 131 C has been amended to provide the loan terms for rescheduling.

Subparagraph 145 A has been amended to include CL's as eligible for reamortization.

Subparagraph 145 B has been amended to provide the loan terms of reamortization.

Subparagraphs 197 C, 246 B, 247 B, 248 B, 362 A, and 407 B have been amended to replace references to DLS with corrected ADPS references.

Exhibit 17, paragraph 5 has been amended to include CL as a loan type under administrative liquidation costs.

Amendment Transmittal (Continued)

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Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA in understanding the following:

- regulations governing:
 - direct loan servicing – special
 - inventory property management
- roles and responsibilities in implementing those regulations and other responsibilities in direct loan servicing – special and inventory property management.

B Sources of Authority

The sources of authority for this handbook include the following:

- 7 CFR Parts 766 and 767, and other regulations that may be referenced throughout this handbook
- various laws and statutes passed by Congress, including CONACT.

C Regulation References

Text in this handbook that is published in the CFR is printed in **bold** text. The CFR citation is printed in brackets in front of the text. The references and text:

- are intended to highlight the requirement in the CFR
- may be used to support adverse FSA decisions.

***--Note:** Cross-references printed in bold are citing a CFR section. The handbook paragraph or subparagraph where the cross-referenced CFR text can be found in is printed in nonbold text in parenthesis (within the bold text).

Example: Subparagraph 103 C provides “[**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.”

Note: The text “**paragraphs (a)(2) through (4) of this section**” refers to 7 CFR 766.105 (a)(2) through (4). The nonbold reference indicates that 7 CFR 766.105(a) is included in subparagraph 103 B.--*

2 Related References

A Related FSA Handbooks

The following FSA handbooks concern FLP.

IF the area of concern is about...	THEN see...
appeals and mediation	1-APP.
civil rights compliance and administration for FSA programs	18-AO.
common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX	1-CM.
direct loan making	3-FLP.
direct loan regular or routine servicing	4-FLP.
employee development and training	6-PM.
environmental requirements	1-EQ.
general and administrative regulations governing FLP	1-FLP.
guaranteed loan making and servicing	2-FLP.
the Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan Program, and servicing of minor loan programs	6-FLP.
personnel management, such as employee conflict of interest	3-PM.
policies and procedures for the acquisition of supplies, equipment, and services	27-AS.
procedures for collecting, maintaining, or disclosing data or information about an individual	3-INFO.
procedures for making records available to the public, other Federal agencies, and Congress	2-INFO.
processing collections and canceling loan checks and payments	3-FI.
State and county organization and administration policies, procedures, principles, and standards, such as work organization	16-AO.
State and county records management	25-AS.

Notes: See FmHA Instruction 1945-A for information on the disaster designation process.

RD Instruction 1940-G must be used along with 1-EQ.

See RD Instructions 1951-C and 1956-B for information on administrative offset and debt settlements, respectively.

B Helpful Links

The Helpful Links web site at

-[https://arcticocean.sc.egov.usda.gov/flp/InformationalLinks?Action=HelpfulLinks&caller=index--](https://arcticocean.sc.egov.usda.gov/flp/InformationalLinks?Action=HelpfulLinks&caller=index--*) provides links to useful web sites.

2 Related References (Continued)

C State Supplements

*--See Exhibit 4 for State supplements required by this handbook. SED's are authorized to issue State supplements to this handbook in addition to State supplements listed in Exhibit 4.

Note: Additional State supplements may:

- **not** be issued to simply state verbatim, policies already established in the national handbook
- be issued:
 - when the national handbook does not provide complete guidance
 - to provide additional guidance for employees with limited experience
 - when State law requirements are not specifically addressed in the national handbook.--*

SED's shall:

- issue required supplements, and any additional supplements, according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

3 FLP Forms

A Form References

Except as provided in this paragraph, this handbook refers to forms according to the new forms numbering system that becomes effective December 31, 2007. Forms executed before December 31, 2007, may have a number different from that referenced. See 1-FLP, Exhibit 5 for a comparison of form numbers before and after December 31, 2007.

Note: See Exhibit 1 for titles of forms referenced in this handbook.

With the exception of FSA-2510, FSA-2512, and FSA-2514, form numbers are not referenced in CFR (**bold**) text. CFR refers to forms by either of the following:

- the common name of the form

Example: CFR may state, "a promissory note", instead of stating, "FSA-2026".

- purpose or the information collected.

Example: CFR may state, "a conservation contract", instead of stating, "FSA-2535".

3 FLP Forms (Continued)

A Form References (Continued)

This handbook may refer to the following forms by title and/or form number.

Form Number	Form Title
FSA-2026	Promissory Note
FSA-2029	Mortgage/Deed of Trust
FSA-2489	Assumption Agreement
FSA-2535	Conservation Contract
FSA-2543	Shared Appreciation Agreement

B FSA-2029

All references to FSA-2029 within this handbook are intended as a reference to the applicable State-specific Mortgage or Deed of Trust. State-specific Mortgages or Deeds of Trust are available on the FFAS Employee Forms/Publications Online Website at <http://intra3.fsa.usda.gov/dam/ffasforms/forms.html> and are numbered FSA-2029 “ST”.

Notes: “ST” represents the appropriate State acronym.

SED is not required to issue a State supplement for the State-specific version of FSA-2029.

C Notary Acknowledgement

Forms do not include preprinted text for the Notary Acknowledgement because numerous States have State-specific laws establishing required text. Therefore, a fillable text area is provided under the “Acknowledgement” heading. SED’s shall issue State supplements providing the appropriate Notary Acknowledgement text to be inserted.

D Applicant and Borrower Signatures

Forms completed by applicants or borrowers include a signature box to accommodate multiple signatures. Separate signature lines are not provided because the number of signatures required for an entity applicant or borrower cannot be determined in advance. Instructions for completing forms will provide guidance to applicants or borrowers on signature requirements.

Forms prepared by FSA for the applicant’s or borrower’s signature include a fillable area instead of preprinted signature lines. County Offices shall insert a signature line and the name of each applicant, borrower, entity member, or other individual required to sign the form.

SED’s shall issue a State supplement addressing State-specific signature requirements.

3 FLP Forms (Continued)

E State Office Modified National Forms

State and County Offices shall use national forms unless their use is prohibited by State law. If modification to a national form is required to comply with State law, the State Office shall submit a copy of the national form showing the necessary modifications, through the State Directives Management System.

Note: State-specific forms based on national forms will be made available on the FFAS Employee Forms/Publications Online Website at <http://intra3.fsa.usda.gov/dam/ffasforms/forms.html> with the same form number as the national form, followed by the State acronym.

F State-Created Forms

State Offices may create forms, as necessary, when a national form is not available. State-created forms shall be assigned a 5-digit number establishing linkage to the appropriate FLP handbook, followed by the State acronym, according to the following.

IF the form pertains to...	THEN the form number shall be...
more than one FLP handbook	FSA-2000-1 ST, FSA-2000-2 ST, FSA-2000-3 ST, etc.
1-FLP	FSA-2100-1 ST, FSA-2100-2 ST, FSA-2100-3 ST, etc.
2-FLP	FSA-2200-1 ST, FSA-2200-2 ST, FSA-2200-3 ST, etc.
3-FLP	FSA-2300-1 ST, FSA-2300-2 ST, FSA-2300-3 ST, etc.
4-FLP	FSA-2400-1 ST, FSA-2400-2 ST, FSA-2400-3 ST, etc.
5-FLP	FSA-2500-1 ST, FSA-2500-2 ST, FSA-2500-3 ST, etc.
6-FLP	FSA-2600-1 ST, FSA-2600-2 ST, FSA-2600-3 ST, etc.

Notes: “ST” represents the appropriate State acronym.

Before using State forms imposing information collections on 10 or more persons per year, State Offices shall work with the National Office to obtain OMB approval.

SED shall issue State supplements, as applicable, to address the use of all State-specific and State-created forms.

Exception: State-specific FSA-2029’s do not require State supplement issuance.

*--G Other Sources of Forms

FSA does **not** provide forms that establish an agreement or contract between applicants/borrowers and third parties only, such as leases. Advise applicants/borrowers to obtain these forms from other sources, such as Extension Service, on-line services, attorney, etc.--*

4 Agency Exception Authority

A General

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

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

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

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

B Submitting Exception Requests

SED must submit an exception request in writing to the Administrator or DAFLP. The request must fully describe the status of the account including:

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

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

- type of security (chattel or real estate) and estimated value
- prior liens
- proposed plan of action that warrants the exception request
- what procedure is to be waived
- the adverse effect to FSA resulting from compliance with the regulation and how it would be eliminated or minimized through the exception
- discussion of graduation
- how the action is in the best financial interest of the Government
- additional information SED thinks is needed to review the case.

Part 2 Disaster Set-Aside (DSA)

41 Purpose

A Intent of DSA

[7 CFR 766.51] (a) DSA is available to borrowers with FLP program loans who suffered losses as a result of a natural disaster.

(b) DSA is not intended to circumvent other servicing available under this part.

(c) Non-program loans may be serviced under this subpart for borrowers who also have FLP program loans.

***--FLP loans that may be serviced under this part are FO, OL, CL, SW, EM, EE, ST, RL,--* and RHF. NP's may be serviced under this part for borrowers who also have any program loans as noted in this subparagraph.**

Note: YL's are **not** eligible for servicing under this part.

DSA is only intended to relieve some of the borrower's immediate and temporary financial stress caused by a disaster. When the operation has demonstrated that it cannot make the payments due and requires restructure, primary loan servicing under Parts 3 and 4 will be used. DSA will not be used to circumvent the servicing available under Parts 3 and 4.

42 Notifying Borrowers of DSA

A When FSA Must Notify Borrowers

When the President, the Secretary of Agriculture, or the Administrator designates a county as a disaster area, FSA will notify its borrowers of the DSA program.

FSA will notify a borrower of DSA availability only if both:

- the borrower was an FLP borrower at the time of the disaster
- the borrower actively operated a farm in a county designated a disaster area or a county contiguous to a designated county.

FSA will not notify borrowers whose FLP loans have been accelerated, restructured after the disaster, have only NP's or YL's, or are paying FSA under a debt settlement agreement.

B How FSA Notifies Borrowers

Borrowers will be notified of DSA availability by sending out Exhibit 10 on the first workday of each quarter following a disaster designation. The letter will list all outstanding disaster designations at the time and those designated during the preceding quarter. No notification is required if there have been no new disaster designations since the last notification letter was sent.

Part 3 Loan Servicing – General Procedures

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 nonmonetary default and is already being serviced according to this part.

Example: A borrower misses his January 1, 2006, payment and is properly notified when he becomes 90 calendar days past due. Processing is then delayed and while FSA continues Primary Loan Servicing (PLS) he makes the January 1, 2006, payment on January 15, 2007. At this point, he is less than 90 calendar days past due; however, since the delinquency was not cured at any point, FSA continues to process PLS. He is not renotified.

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.

66 Borrower Notification (Continued)**A General Requirements (Continued)****[7 CFR 766.101(a)] (3) Are in non-monetary default on any loan agreements;**

FSA considers a borrower in nonmonetary default if the borrower has not acted in good faith or fails to meet any written loan agreements with FSA according to 4-FLP, paragraph 99. A supporting opinion must be obtained from OGC in cases of fraud, waste, or conversion.

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

[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 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.

83 Borrower Response Timeframes (Continued)**B When Loan Servicing Application Timeframes Begin**

If the loan servicing notification package is accepted by certified mail, the timeframes begin the day the certified mail receipt is signed.

If the loan servicing notification package is sent by first class mail, the timeframes begin 3 calendar days after the mailing date.

If the borrower is an entity or 2 or more individuals not at the same address, the timeframes listed in subparagraph A begin the day the last borrower received the loan servicing notification package according to paragraphs 81 and 82.

C Incomplete Applications

Borrowers who are notified with FSA-2510 or FSA-2514 and do not submit all required information will be sent FSA-2516 after 30 calendar days to remind them of the final day to submit a complete application and all items still required. No further contact regarding incomplete applications or timeframes is required.

D SED Extension Authority

SED has the authority to extend the deadline only for the submission of a complete application. This must be based only upon extraordinary circumstances that are beyond the *-borrower's control, such as serious illness. The authorized agency official must--* recommend this extension in writing to SED and include specific details of the circumstances. Such extensions normally will not exceed 30 calendar days.

84 Releasing Divorced Spouses of Liability**A General**

This paragraph applies only when a borrower requests, with a loan servicing request, a release from liability because of divorce. There is no authority to release individual members of an entity under this part.

FSA will consider releases of liability for borrowers who are current on all payments under 4-FLP.

A divorce does not release an FSA obligor from liability. The authorized agency official will provide a loan servicing notification package to divorced spouses who have not been released of liability according to paragraph 68.

A borrower is responsible for informing FSA of a divorce action and providing FSA with copies of divorce decrees, court sanctioned settlement agreements, and updated contact information, such as a new mailing address and telephone number.

B Release of Liability Requirements

[7 CFR 766.102 (f)] When jointly liable borrowers have been divorced and one has withdrawn from the farming operation, the Agency may release the withdrawing individual from liability, provided:

- (1) The remaining individual submits a complete application in accordance with this section;**
- (2) Both parties have agreed in a divorce decree or property settlement that only the remaining individual will be responsible for all Agency loan payments;**
- (3) The withdrawing individual has conveyed all ownership interest in the security to the remaining individual; and**
- (4) The withdrawing individual does not have repayment ability and does not own any non-essential assets.**

--The borrowers will submit any information required by the authorized agency official to-- address the items in this subparagraph. Common items required include a Divorce Decree, Property Settlement Agreements, Deeds, Bills of Sale, and financial information.

84 Releasing Divorced Spouses of Liability (Continued)**C Applying for Loan Servicing**

An application for loan servicing that requests release of liability of a withdrawing spouse is complete and can only be approved when:

- the withdrawing spouse submits the material and documentation required by subparagraph B within the timeframe required by subparagraph 83 A
- the remaining borrower submits all forms and documentation required in paragraph 81 within the required timeframe.

D Approval or Disapproval of Release of Liability

--If a divorced spouse requests a release of liability under this paragraph, the authorized agency official will prepare and forward FSA-2080, all relevant case information, and a well-documented memo summarizing the request to SED. The authorized agency official-- will include a recommendation.

If SED approves the release of liability, the authorized agency official may then process the loan servicing request of remaining obligors who have submitted a complete and timely loan servicing application.

If the release cannot be approved by SED, the borrower requesting the release will be given appeal rights. After all appeals are concluded, FSA will continue processing the loan servicing application and both borrowers must jointly execute all remaining documents.

Once the application is complete and all required information is received from both parties, processing a release of a divorced spouse does not delay or suspend the time for FSA to process the application of the remaining borrower.

85 Borrowers Do Not Respond to Loan Servicing Notification**A General Policy**

[7 CFR 766.103 (a)] If a borrower who is financially distressed or current requested loan servicing and received FSA-2512, but fails to respond timely and subsequently becomes 90 days past due, the Agency will notify the borrower in accordance with § 766.101(a)(2) (subparagraph 67 A).

[7 CFR 766.103 (b)] If a borrower who is 90 days past due and received FSA-2510, or is in non-monetary, or both monetary and non-monetary default, and received FSA-2514 and fails to timely respond or does not submit a complete application within the 60-day timeframe, the Agency will notify the borrower by certified mail of the following:

- (1) The Agency's intent to accelerate the loan; and**
- (2) The borrower's right to request reconsideration, mediation and appeal in accordance with 7 CFR parts 11 and 780.**

B Intent to Accelerate

The authorized agency official must send FSA-2525 and FSA-2526 to a 90-calendar-day past due borrower or a borrower in nonmonetary default who fails to apply for loan servicing within 60 calendar days of borrower receipt of the loan servicing package. If the borrower is an entity or is comprised of 2 or more individuals, the same borrowers that received the original notice will be notified.

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.

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.**

[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 the authorized agency official. A copy of the eDALR\$ report will be--* included.**

[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 Nonmonetary 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.

[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.

[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.

[7 CFR 766.106 (b)(2) (i) The borrower may request reconsideration, mediation or voluntary meeting of creditors, or appeal in accordance with 7 CFR parts 11 and 780.

[7 CFR 766.106 (b)(2) (ii) The borrower may request negotiation of appraisal within 30 days in accordance with § 766.115 (subparagraph 230 B).

[7 CFR 766.106 (b)(2) (iii) If the net recovery value of non-essential assets is sufficient to pay the account current, the borrower has 90 days to pay the account current.

[7 CFR 766.106 (b)(2) (iv) The borrower, if eligible in accordance with § 766.113 (paragraph 321), may buyout the loans at the current market value within 90 days.

[7 CFR 766.106 (b)(2) (v) The borrower may request homestead protection if the borrower's primary residence was pledged as security by providing the information required under § 766.152 (Part 7).

117-125 (Reserved)

--Section 4 Monitoring the Statute of Limitations (SOL's)*126 Monitoring Actions****A FLC Responsibilities**

FLC's are responsible for monitoring delinquent accounts to ensure that deficiency judgment activities occur before the expiration of 6-year SOL's. In general, after 6 years from the date SOL begins to run, FSA may not obtain a deficiency judgment against a delinquent borrower. FSA may still pursue collection through liquidation of the security and other collection activities, such as offsets and referral of the debt to the Department of Treasury's for cross-servicing.

FLC's shall ensure that:

- the 6-year SOL's on delinquent accounts are monitored
- all cases in which 6-year SOL's have not yet run receive top servicing priority before the statute bars judicial collection through a deficiency judgment
- in cases where 6-year SOL's may bar collection through a deficiency, but the debtor has repayment ability or other assets, consult with the Regional Attorney to determine if a deficiency judgment can be sought.

Notes: Consult with the Regional Attorney to determine if State law prevents FSA from pursuing offset collection or referring deficiency judgments for TOP.

If a deficiency judgment will not be sought, steps should be taken immediately after liquidation of security to determine if the account can be classified as CNC and referred for cross-servicing.--*

126 Monitoring Actions (Continued)

***--B Authorized Agency Official Action**

Each authorized agency official shall maintain a list of all delinquent accounts where--*
6-year SOL's may bar deficiency collection within the next 24 months.

Note: In certain situations, the time period remaining under SOL's may be suspended because of other actions that may have prohibited FSA from enforcing collection of the debt such as the debtor filing bankruptcy.

C Quarterly Reports

Each quarter, authorized agency officials shall send an updated list of cases in subparagraph B to DD's and FLC's.

Part 4 Primary Loan Servicing Programs

Section 1 Consolidation and Rescheduling

131 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 (Part 2) of this part. The Agency may consolidate loans upon cancellation of the deferral or DSA.

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

When processing a restructure, the ADPS transaction codes 5T, Reverse/Cancel Installment Set-Aside, and 5Y, Record Loan Deferral Expiration/Cancellation, must be sequenced to process before the 1M, New Rates and Terms - Real Estate/Operating Loan.

131 Eligibility and Loan Terms (Continued)

B Loans Eligible for Rescheduling

[7 CFR 766.107(b)] The Agency may reschedule loans made for chattel 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 (Part 2) of this part. The Agency may reschedule loans upon cancellation of the deferral or DSA.**

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

FSA processes cancellation of deferral or DSA with a 5Y Record Loan Deferral Expiration/Cancellation ADPS transaction or cancellation of DSA with a 5T Reverse/Cancel Installment Set-Aside ADPS transaction before the closing of the restructure.

C Loan Terms

[7 CFR 766.107(c)] (1) The Agency determines the repayment schedule for consolidated and rescheduled loans according to the borrower's repayment ability.

***--(2) Except for CL and RL loans, the repayment period cannot exceed 15 years from the date of the consolidation and rescheduling.**

(3) The repayment schedule for RL loans may not exceed 7 years from the date of rescheduling.

(4) The repayment schedule for CL loans may not exceed 20 years from the date of the original note or assumption agreement.--*

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.--

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.

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

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

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

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

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

FSC, FLOO credits the borrower's account if the borrower who signs FSA-2535 is delinquent. FSC, FLOO uses FSA-2597 to credit the borrower's account with a 3H transaction in ADPS.

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

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

The authorized agency official must submit a copy of the eDALR\$ report, FSA-2597, and copies of all rescheduled or reamortized notes to FSC, FLOO to credit a borrower's account.

D Processing Noncash Credit for a Current Borrower

The authorized agency official will complete FSA-2597 to credit the borrower's account with a 3H transaction in ADPS.

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

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

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

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

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

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

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

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

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

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

C Responsibilities and Enforcement Under FSA-2535

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

199-210 (Reserved)

Section 3 Closing**246 Closing Consolidated/Rescheduled Loans****A Introduction**

eDALR\$ adds the amount of accrued interest and any outstanding protective advances to the principal balance at the time of rescheduling according to Exhibit 17.

B Closing Rescheduled Loans

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- mark the existing promissory note or assumption agreement "rescheduled" and attach it to the new FSA-2026
- file the new FSA-2026 according to 25-AS
- file a copy of the new rescheduled FSA-2026 with the copy of the existing promissory note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new rescheduled FSA-2026 to the borrower at closing
- file the original eDALR\$ report in position 3.

--A 1M transaction will be processed in ADPS to record the rescheduled loans.--

247 Closing Reamortized Loans**A Introduction to Reamortization**

eDALR\$ adds the accrued interest and any outstanding protective advances to the principal balance at the time of reamortization according to Exhibit 17.

B Closing Reamortized Loans

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- mark the existing promissory note or assumption agreement "reamortized" and attach it to the new FSA-2026
- file the new FSA-2026 according to 25-AS
- file a copy of the new reamortized FSA-2026 with the copy of the existing note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new reamortized FSA-2026 to the borrower at closing
- file the original eDALR\$ report in position 3.

--A 1M transaction will be processed in ADPS to record the reamortized loans.--

SED will issue a State supplement ensuring that existing liens and title insurance or opinions are extended and preserved.

248 Closing Deferred Loans**A Introduction to Deferrals**

FSA will also reschedule or reamortize, as applicable, all loans deferred through primary loan servicing.

FSA may defer all or part of a loan according to eDALR\$.

B Closing Deferrals

The authorized agency official will:

- ensure that the payments on FSA-2026's match the final eDALR\$ report
- complete the addendum to FSA-2026 addressing repayment of deferred interest according to FSA-2026 instructions
- mark the existing promissory note or assumption agreement "rescheduled/reamortized with full/partial deferral," as appropriate, and attach it to the new FSA-2026
- file the new deferred FSA-2026 according to 25-AS
- file a copy of the new note with the copy of the existing promissory note or assumption agreement in position 2 of the borrower's case file
- provide a copy of the new deferred FSA-2026 to the borrower at closing
- file the original eDALR\$ report in position 3.

A 5W ADPS transaction will be processed to record the deferral, and a 5G transaction will be processed in DLS to record the deferral flag on the account. These transactions will be *--processed and sequenced with the 1M transaction in ADPS.--*

248 Closing Deferred Loans (Continued)

C Ongoing Servicing of Deferrals

Review the FSC, FLOO quarterly status report to determine borrowers who have deferrals expiring.

Review the borrower's financial progress during the annual analysis according to paragraph 161.

Send the borrower a letter 6 months before the expiration of the deferral stating the amount and due date of the first payment.

--After all deferrals on a borrower's account have expired, the "DEF" flag (Exhibit 11) must be removed from the account by completing FSA-2562 and processing a 5H transaction.--

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

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

E Amortized Loan Security

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

The authorized agency official will close the Shared Appreciation Payment Agreement at the interest rate in effect at the time of approval and according to the requirements listed in *--subparagraphs F through I and 3-FLP, Part 16.--*

F Amortized Loan Processing

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

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

The authorized agency official will process a 3O ADPS transaction to record the Shared Appreciation Payment Agreement.

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

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

H Amortized Loan Application Denied

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

I Servicing SA

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

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

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

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

347 (Reserved)

Section 2 Servicing NRBRA's

361 Events Triggering Recapture**A Servicing Existing NRBRA's**

[7 CFR 766.206(a)] Prior to July 3, 1996, the Agency was authorized to offer borrowers buy out their loans at the net recovery value. A Net Recovery Buyout Agreement was required for borrowers who bought out their loans at the net recovery value. The Agency services existing Net Recovery Buyout Recapture Agreements as described in this section.

B Requirements and Terms of NRBRA's

[7 CFR 766.206(b)] (1) The term of a Net Recovery Buyout Recapture Agreement is 10 years. Net Recovery Buyout Recapture Agreements are secured by a lien on the former borrower's real estate.

(2) If the former borrower sells or conveys real estate within the 10-year term, the former borrower must repay the Agency the lesser of:

(i) The market value of the real estate parcel at the time of sale or conveyance, as determined by an Agency appraisal, minus the portion of the recovery value of the real estate paid to the Agency in the buyout;

(ii) The market value of the real estate parcel at the time of the sale or conveyance, as determined by an Agency appraisal, minus:

(A) The unpaid balance of prior liens at the time of the sale or conveyance; and

(B) The net recovery value of the real estate the borrower paid to the Agency in the buyout if this amount has not been accounted for as a prior lien;

(iii) The total amount of FLP debt the Agency wrote off for loans secured by real estate.

361 Events Triggering Recapture (Continued)

B Requirements and Terms of NRBRA's (Continued)

Net Recovery Recapture amounts become due only if the former borrower sells or conveys the buyout property before the expiration of NRBRA.

FSA does not consider transfer of a buyout property to be a conveyance if the transfer is made to the borrower's spouse or child because of the borrower's death or retirement, and the spouse or child is actively engaged in the farming operation and assumes full liability of the provisions of NRBRA according to instructions from OGC.

362 FSA Bi-Annual Review

A FSA Review

The authorized agency official will review courthouse records every 2 years to determine whether the former borrower sold or transferred the security for the Recapture Agreement. If the security is sold, the authorized agency official will service the account according to paragraph 363.

--The authorized agency official will post all scheduled reviews to DLS using the Office Management function and document the review results in the FBP running record and-- borrower's case file.

406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed**A Removing the “SAA” Flag and Writing Off Discharged Debt**

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

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

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

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

--If some, but not all liable parties were discharged of the debt, the account cannot be debt settled and SED should be consulted before initiating servicing options. The account will be classified as “CO” (Exhibit 11) with an ADPS transaction 5A, if no security remains. The State Office will seek the advice of the regional OGC to pursue separate collection actions against nondischarged liable parties and any remaining security.--

B Returning to Regular Servicing

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

C Servicing if the Borrower Defaults on the Confirmed Reorganization Plan

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

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

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

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

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

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

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

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

- DLS must be updated with either a 4A or 4D transaction to list the account in the name of any remaining liable debtors
- related entity status of the discharged individuals or entities should be updated in the *--DLS Customer Profile Related Entity function to reflect they are no longer a--* co-borrower/co-signer/guarantor
- the Chapter 7 discharge order must be maintained in the casefile
- in community property States, the State Office will seek the advice of the regional OGC to pursue separate collection action against nondischarged borrowers who are the spouse of a discharged borrower.

Note: If the debt is not paid in full and RD-1956-1 is needed, only the individual or entity receiving the Chapter 7 discharge will be listed on RD-1956-1. Notate “Chapter 7 Discharge” after their name and attach a copy of the discharge order.

C Canceling the Debt When All Liable Parties Are Discharged

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

D Notifying Borrower if Servicing Options Are Remaining

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

E When FSA Previously Notified the Borrower of Servicing Options

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

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

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 subpart B of 7 CFR part 1956.

--If the proceeds do not pay the borrower's FSA debts in full, FSA will continue to service the borrower's account. Exhibit 44 will be mailed to the borrower 45 calendar days after all security is liquidated, all primary loan servicing options have been exhausted, and the account is accelerated. The borrower must apply for debt settlement within 30 calendar days of the date Exhibit 44 is sent or FSA will refer the account to the Department of Treasury--* for cross-servicing. See RD Instruction 1956-B for information on debt settlement.

464 Voluntary Liquidation of Chattel**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 chattel 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 Chattel (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 chattel 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 RD Instruction 1956-B.

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.

Section 3 Voluntary Conveyance of Chattel**516 Before Receiving Conveyance Offers of Chattel****A Borrower Meeting**

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

The borrower will be strongly encouraged to execute FSA-2571 as opposed to beginning the voluntary conveyance process as it is simpler and quicker and does not require SED approval or a concurrent debt settlement application. Chattels may sometimes be conveyed as fixtures as described in subparagraph 481 A.

The authorized agency official will also inform the borrower that:

- voluntary conveyance is a part of liquidation
- **Note:** The borrower must liquidate, convey, or do a combination of both for all real property and chattel that secures the borrower's FSA loans.
- any equity in the property to be conveyed may be lost through conveyance
- there could be tax consequences. FSA does not give tax advice. The borrower should consult a tax professional or the IRS for any guidance on this issue. FSA does not release for income taxes. The property is owned by the borrower and the borrower is responsible for any capital gains taxes.

The authorized agency official will provide the borrower with FSA-2570, FSA-2070, RD 1956-1, and a list of the requirements to make a complete conveyance offer.

517 Chattel Conveyance Application Requirements**A Application**

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

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

The borrower must complete FSA-2570.

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

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

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

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

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

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

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

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

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

C Notification

*--Exhibit 52 shall be used to accelerate all loans of American Indian borrowers that are secured by land located within a reservation, and to notify those borrowers of their rights.

Exhibit 53 shall be used to notify the Tribe of available options.

Exhibit 54 provides additional/detailed information on borrower rights under existing law and FSA regulation and must be attached to each Exhibit 52.--*

D Responsibilities

The authorized agency official responsible for servicing the American Indian borrower's account must do the following:

- ensure that all loan servicing actions and any appeals have been concluded or exhausted before sending Exhibit 52
- notify the borrower by sending Exhibit 52 and Exhibit 54

Notes: DD must sign Exhibit 52.

SED must have approved the foreclosure before Exhibits 52 and 54 are sent.

- notify the Tribe by sending Exhibit 53, of any Exhibit 52 sent to a borrower who has pledged as collateral reservation land within such Tribe's jurisdiction.

SED must not permit acceleration on or foreclosure of any direct FLP loans held by American Indian borrowers, unless authority is granted by the National Office on a--* case-by-case basis. This restriction is based on the unresolved "Class Action Complaint" filed in U.S. District Court for the District of Columbia alleging acts of discrimination against American Indian farmers by FSA.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

***--E Authorized Agency Official Responsibilities**

Authorized agency officials shall, upon receipt of a request from an American Indian borrower, do the following.

- If the borrower requests that the Tribe be assigned the loan, the authorized agency official shall notify the Tribe of the borrower’s request using Exhibit 55.--*

Notes: The Tribe must notify FSA within 30 calendar days of its intention to accept or deny the borrower’s request.

The notification to the Tribe shall include a copy of the following:

- current appraisal of the real estate and valuations of all chattel security
- borrower’s promissory notes to be assigned
- security instruments
- amount the Tribe would be required to pay FSA for assignment of the loan or loans

Note: This amount shall equal the lesser of the market value of all loan security or the principal and interest outstanding on the loan.

- a statement that the Tribe may pay for the assignment transaction over a period of time under terms and conditions similar to ITLAP.

- *--If the borrower requests that the Secretary of Interior be assigned the loan, the authorized agency official shall refer the request, along with a copy of each of the following,--* through SED, to the National Office:

- current appraisal of remaining FSA security
- borrower’s promissory notes
- all security instruments.

- *--**Notes:** The authorized agency official shall forward the request and documentation to--* either of the following:

- | | |
|--|---|
| <ul style="list-style-type: none"> • for USPS delivery:
USDA, FSA, DAFLP, LSPMD
STOP 0523
1400 INDEPENDENCE AVE SW
WASHINGTON DC 20250-0523 | <ul style="list-style-type: none"> • for Federal Express delivery:
USDA, FSA, DAFLP, LSPMD
1250 MARYLAND AVE SW
STE 500
WASHINGTON DC 20024
Telephone: 202-720-6293. |
|--|---|

The National Office will work with the National Office of BIA to determine whether the Secretary of Interior will accept the assignment of the loan.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

*--E Authorized Agency Official Responsibilities (Continued)

The authorized agency official shall notify the borrower:--*

- that the request has been forwarded
- of the Tribe or Secretary of the Interior’s decision as follows.

IF the...	THEN...
decision of the Tribe or the Secretary of Interior is to accept the borrower’s loan assignment request	*--the authorized agency official shall notify the borrower--* using Exhibit 56.
Secretary of Interior has accepted the assignment	borrower’s loan will be assigned to the Secretary of Interior pursuant to National Office instructions.
Tribe has indicated that it will accept an assignment of the loan and will seek to pay for the transaction over a period of time	*--the authorized agency official shall send the Tribe, for--* the Tribe to execute within 90 calendar days, FSA-2026 payable to FSA in exchange for the assignment of the loan, as well as any other loan documents required by FSA to finance this debt under rates and terms similar to an ITLAP loan, including an assignment of Tribal income as security for the Tribe’s loan. FSA-2026 shall be prepared with the consideration amount as determined under this paragraph and with rates and terms similar to an ITLAP loan. Note: All ITLAP servicing options may be applied to these loans, except any write down servicing options.
Tribe has timely executed and returned the documents described in this paragraph	*--the authorized agency official shall send to the Tribe all--* original borrower promissory notes and mortgages being assigned, along with any other relevant security instruments. Agency documents provided to the Tribe shall be prepared, endorsed, processed, and delivered pursuant to guidance from the regional OGC.
decision of the Tribe or the Secretary of Interior is not to accept the assignment of the loan	*--the authorized agency official shall:--* <ul style="list-style-type: none"> • notify the borrower using Exhibit 57 • proceed with foreclosure action according to Part 16. Note: Failure of the Tribe to respond to a request that the Tribe accepts an assignment of the loan, or to finalize the loan assignment transaction within the time provided in this paragraph, shall be treated as a denial of the request.

--The authorized agency official shall keep copies of all letters or documents sent or-- received in the borrower’s loan file.

537 Acceleration of Loans to American Indians With Real Estate Security on an Indian Reservation (Continued)

***--F Authorized Agency Official or FSC, FLOO Responsibilities**

The authorized agency official or FSC, FLOO shall do the following.--*

- FSC, FLOO shall process all transactions related to the assignment of an American Indian account to a Tribe or the Secretary of Interior upon receipt of a transmittal letter from the servicing office accompanied by copies of the assignment agreement and promissory notes that are assigned.
- The servicing office transmittal letter must provide to FSC, FLOO the market value of the security assigned, number of acres under FSA security instruments, and amount of the annual installments to be paid by the Tribe under any ITLAP rate and term financing provided. If the Tribe pays the full assignment consideration price in cash (up front) as opposed to ITLAP rate and term financing, the servicing office transmittal letter will notify FSC, FLOO accordingly, including the information from the payment transmittal record.
- FSC, FLOO will close out the American Indian borrower's FSA loan account and no further FSA servicing action will be required in cases where the Secretary of Interior accepts the assignment.
- If the Tribe has accepted the assignment of the borrower's loan and has given FSA a new FSA-2026 for the purchase of the loan, payments received by FSA on a new Tribal loan taken to pay the assignment will follow the same guidelines currently used for regular ITLAP payment processing.

538-550 (Reserved)

Part 18 Property Abandonment, Evictions, and Personal Property Removal**701 Determining Whether Property Is Abandoned****A Attempting to Locate the Borrower**

When a borrower appears to have abandoned security property, the authorized agency official will attempt to locate the borrower to determine the borrower's intentions concerning the property. If necessary, the authorized agency official will consult USPS, the borrower's other creditors, and others in an attempt to locate the borrower.

B Determining Whether Security Property Is Abandoned

The authorized agency official will make an immediate determination according to the definition of abandoned security property and, with State Office consultation, take prompt action to protect FSA's security interests when livestock, perishable goods, or both are involved.

702 Loan Servicing for Borrowers Who Abandon Property**A Notifying the Borrower of Loan Servicing Options**

When FSA determines that property has been abandoned, the authorized agency official will send FSA-2514 and FSA-2515 to the borrower's last known address according to Part 3 unless the borrower has already been notified with FSA-2510 and FSA-2511 or FSA-2514. In emergency situations, the authorized agency official may take actions to secure abandoned property and care for abandoned livestock before completing steps outlined in Part 15.

703 Taking Abandoned Security Property Into FSA Custody**A General Policy**

[7 CFR 767.51] The Agency will take actions necessary to secure, maintain, preserve, manage, and operate the abandoned security property, including marketing perishable security property on behalf of the borrower when such action is in the Agency's financial interest. If the security is in jeopardy, the Agency will take the above actions prior to completing servicing actions contained in 7 CFR part 766 (Primary Loan Servicing).

B Documenting FSA's Abandonment Determination

The authorized agency official will fully document the facts substantiating the determination of abandonment in the running record of the borrower's case file.

C Checking for Liens on Security Property

FSA will conduct a lien search to identify any other liens on the security property. See *-3-FLP, Part 16 for further guidance on conducting lien searches.--*

D Notifying Lienholders of Abandonment

If the lien search reveals that another party has a security interest in the property, FSA will notify the lienholder that the borrower appears to have abandoned the property. FSA will request corroboration of the facts of abandonment as well as suggestions regarding possible courses of action for protecting mutual interests.

E Assuming Custody of Security Property

The authorized agency official will consult SED before taking custody of abandoned property. Development of a custodial contract will be completed by the State Contracting Officer if required by SED.

FSA will take abandoned property into custody if there are no prior liens or if a prior lienholder does not take the measures necessary to protect the property. FSA will usually take abandoned property into custody by arranging for its care and protection. FSA will pursue relocation of custodial property only under extreme circumstances.

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
51-S	5-FLP Special Loan Servicing Pending	67, 401, Ex. 11
ACL	Accelerated	534, Ex. 11
BAP	Bankruptcy Action Pending	401, Ex. 11
CAP	Court Action Pending	421, Ex. 11
CL	conservation loan	41, 131, 145, Ex. 2, 17
CO	Collection Only	406, Ex. 11
CNC	currently not collectible	126, 433
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DEF	Deferral	248, Ex. 11
FAP	Foreclosure Action Pending	567, Ex. 11
FLMAC	Farm Land Market Advisory Committee	Ex. 17
HML	high, medium, low	901
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
NP	nonprogram loan	Text
NRBRA	Net Recovery Buyout Recapture Agreement	321, 361, 363, 365
NRV	net recovery value	102, 321
RH	rural housing	Ex. 79
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346
SAA	subject to approved adjustment	172, 249, 343, 404, 406, Ex. 11
SCRRG	State Civil Rights Review Group	533
SEC	State Environmental Coordinator	802, 821, 837, 839
SOL	Statute of Limitations	126, 127
ST	softwood timber loan	41
TPJ	third party judgment	421, Ex. 11
YL	youth loan	41, 42, 68, 132

Redelegations of Authority

None.

Definitions of Terms Used in This Handbook (Continued)

Bankruptcy Trustee

A bankruptcy trustee is a court-appointed person who oversees execution of the confirmed bankruptcy plan. A Trustee is less frequently used in Chapter 7 and Chapter 11 bankruptcies than in Chapter 12 and 13 bankruptcies.

Basic Security

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency.

Beginning Farmer

Beginning farmer is an individual or entity who:

- *--(1) Meets the loan eligibility requirements for a direct or guaranteed CL, FO, or OL, as--* applicable;**
- (2) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;**
- (3) Will materially and substantially participate in the operation of the farm:**
 - (i) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located.**
 - (ii) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;**
- (4) Agrees to participate in any loan assessment and borrower training required by Agency regulations;**

Definitions of Terms Used in This Handbook (Continued)

Beginning Farmer (Continued)

- (5) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the median acreage of the farms in the county where the property is located. If the farm is located in more than one county, the median farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the median farm acreage of the county where the major portion of the farm is located will be used. The median county farm acreage will be determined from the most recent Census of Agriculture;
- (6) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and
- (7) In the case of an entity:
- (i) All the members are related by blood or marriage; and
 - (ii) All the members are beginning farmers.

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term "borrower" includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation

Cancellation is the final discharge of, and release of liability for, a financial obligation to the Agency on which no settlement amount has been paid.

Ceases to Farm

Ceases to farm refers to a borrower who is considered to have "ceased farming" if the borrower is no longer receiving income produced by the farm, if the borrower is no longer operating the farm, and/or if the borrower has leased the farm for more than 3 years or the lease has an option to purchase.

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 non-program 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 non-program assistance and are serviced accordingly.

Inventory Property

Inventory property is real estate or chattel 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)

Preservation Loan Servicing

Preservation loan servicing is homestead protection. See homestead protection.

Primary Loan Servicing Programs

Primary loan servicing programs include:

- (1) Loan consolidation and rescheduling, or reamortization;
- (2) Interest rate reduction, including use of the limited resource rate program;
- (3) Deferral;
- (4) Write-down of the principal or accumulated interest; or
- (5) Any combination of the above.

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.

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.

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

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

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

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

4 eDALR\$ Formulas (Continued)

J Debt Writedown and Buyout Limitation

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

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

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

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

Instructions for Using eDALR\$ (Continued)

5 Periodic Data

A Administrative Liquidation Costs

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

Loan Type	Calculation	Cost
OL	$(3063 \div 60 = 51.05) \times \$23.74 =$	\$1,212
--FO/SW/CL--	$(3063 \div 60 = 51.05) \times \$23.74 =$	\$1,212
EM/EE	$(3063 \div 60 = 51.05) \times \$23.74 =$	\$1,212
RH (Used for RHF loans only.)	$(3063 \div 60 = 51.05) \times \$23.74 =$	\$1,212

Note: Costs were calculated using the most recently available Delphi study and the 2009 GS-11/1 hourly pay rate.

B Determining Chattel Costs

Chattel costs are determined based on the following:

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

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

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