

For: State and County Offices

FSFL Real Estate Security Values

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

Additional security is required for FSFL's:

- where the loan principal exceeds \$50,000
- where the aggregate outstanding FSFL balance to the producer exceeds \$50,000
- according to 1-FSFL, subparagraph 24 C.

A lien on the real estate where FSFL is located is the preferred additional security. Procedure currently requires that the additional security be equal to the loan amount without giving any value to the structure.

Notes: Items such as livestock, machinery, vehicles, and other equipment are **not** authorized to be used as additional security for FSFL.

The provisions for irrevocable letters of credit remain according to 1-FSFL, subparagraph 24 G.

Presently, the method used to determine the value of the additional security for FSFL varies from State to State. PSD has received numerous requests to clarify the methodology used for determining values for FSFL real estate.

Disposal Date	Distribution
September 1, 2011	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

B Purpose

This notice provides State and County Offices the authority to:

- use authorized and uniform methods to follow in determining the value of required FSFL additional security
- assign a value:
 - up to 50 percent of the loan amount to the structure when using the current tax assessed value
 - of 20 percent of the loan amount to the structure when the structure is separate from the real estate collateral.

C Effective Date

The provisions in this notice are effective immediately for all FSFL's not yet approved **and** obligated, and for **all** new FSFL applications.

Note: Those producers with approved and obligated FSFL applications are **not** required to follow the provisions in this notice. But these producers may elect to use the provisions in this notice if their loan has **not** been disbursed.

D Contacts

If there are questions about this notice, State Offices shall contact Toni Williams, PSD by any of the following:

- e-mail at toni.williams@wdc.usda.gov
- telephone at 202-720-2270
- FAX at 202-690-3307.

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2 Authorized Methods for Determining Value of FSFL Security

A Real Estate Appraisal

FSFL applicants may request a real estate appraisal completed by a farm loan approved appraiser at the applicant's expense. Under this option, if the appraisal is on the real estate where the structure is located, the value of the FSFL structure is included in the appraisal. CCC's security interest in the real estate must be valued at 125 percent of the loan amount.

The State Office shall request and complete the required paperwork for the appraisal but the entire cost of the appraisal is at the applicant's expense.

If an applicant requests an appraisal, the County Office shall:

- enter on CCC-185, item 18, "I request an appraisal to determine the value of the real estate and my FSFL structure to use for the required real estate security. I understand that I am responsible for the entire cost of the appraisal."
- obtain the applicants signature and date before requesting the appraisal.

Note: See Exhibit 1 for detailed instructions on requesting an FSFL appraisal.

Example 1: Application submitted for a \$200,000 FSFL which requires additional security. An appraisal determined the value of the 60 acres, including FSFL, to be \$277,500.

\$277,500 – Appraised value including the structure

\$200,000 loan X 125 percent required security value = \$250,000.

Appraised value of 60 acres, including the structure, is adequate to secure FSFL.

Example 2: Application submitted for a \$200,000 FSFL which requires additional security. An appraisal determined the value of the 80 acres, including FSFL, to be \$370,000. Local bank has a \$120,000 mortgage on the ground where the facility is located and they will **not** subordinate.

\$370,000 – Appraised value including the structure

-120,000 – Bank mortgage (will not subordinate but **must** sign FSA-2319)

\$250,000 – Remaining value for CCC

\$200,000 loan X 125 percent required security value = \$250,000

Appraised value adequate to secure FSFL.

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2 Authorized Methods for Determining Value of FSFL Security (Continued)

B County Tax Assessed Value

Tax assessed values differ from State to State and county to county.

FSFL applicant may use the assessed property value from the current county tax bill for a specified parcel or parcels to determine the value of real estate used for FSFL security.

If a State uses a Tax Assessment Value (TAV) on the county tax bills, that percent can be applied if the exact percent is annually documented.

TAV reflects the State and county tax equalization process. The market value on the county tax bill represents the market value of the real estate.

If the market value is not included on the county tax bill, the exact percent used to determine the market value must be annually documented by the County Assessor. This documentation shall be:

- attached to a copy of the applicable tax bills
- retained in FSFL folder.

The following table shows various examples that may be used to compute the market value of real estate if a percent is obtained.

IF TAV or comparable percent is...	THEN to determine the market value of the real estate, multiply the assessed value times...
40	2.5000
50	2.0000
65	1.6666
75	1.3334

Under this option, and if authorized by STC, COC may determine the value of FSFL structure to equal **up to** but not exceed 50 percent of **loan** amount **if** the facility is located on the property to be mortgaged.

Example: Application submitted for a \$250,000 FSFL requiring additional security. STC has approved COC's to allow the value of the FSFL structure to equal 50 percent of the loan amount, or in this case, \$125,000. Real estate security without any value given to the FSFL structure must equal \$125,000. Current county tax bill shows the assessed value of an 80 acre parcel to be \$62,500. The County Assessor provides CCC written documentation that indicates TAV is 50 percent. (\$62,500 X 2 = \$125,000)

\$250,000 - FSFL amount
- \$125,000 - Value of structure STC authorizes COC to use
\$125,000 - Real estate security needed

\$125,000 - Real estate security value (TAV must equal \$125,000)

In this example, CCC has first lien on the 80 acre parcel. With the structure and first lien on the 80 acres, CCC is secure.

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3 Real Estate Requirements

A FSFL Real Estate Security

See 1-FSFL, subparagraph 24 E for the general real estate lien requirements for FSFL.

A second lien position will be accepted only if **both** of the following apply:

- CCC is adequately secure and the method and computations used to value the security are documented in detail and retained in the FSFL folder
- FSA-2319 or a similar agreement executed by the superior lien holder, following requirements specified by the regional attorney, not to extend additional liens on the property is obtained by CCC.

B FSFL Real Estate Security Separate From Collateral

Real estate liens may cover acreage separate from the collateral:

- according to 1-FSFL, subparagraph 24 C
- if the value of the real estate is determined by 1 of the methods in paragraph 2.

C Applying Value to FSFL Structure Separate From Real Estate

When FSFL real estate security is separate from FSFL collateral, the County Office shall apply a value of 20 percent of the loan amount if **all** of the following apply:

- CCC-297 is obtained from the owners of the real estate on which FSFL structure is located severing the FSFL structure from the real estate

Note: Unless State law, as determined by the regional OGC, makes using CCC-297 unnecessary, **and** CCC is adequately protected without CCC-297.

- UCC-1 is filed on FSFL structure giving CCC first lien position
- FSFL structure has collateral resale value, according to 1-FSFL, subparagraph 24 C.

Note: Resale collateral value means collateral that can be sold and moved to a new location for which compensation equal to the outstanding loan value can be expected. 1-FSFL will be updated to add this definition.

See Exhibit 2, subparagraph B to determine the value of real estate security separate from the FSFL facility.

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4 Action

A STC and State Office Action

STC's may set a more restrictive statewide policy for determining FSFL real estate security values if it is determined that the economic conditions in the State and in agriculture in general, require such action to protect CCC's interests.

STC shall determine authorized percent given to FSFL structure in subparagraph 2 B.

STC's and State Offices shall:

- comply with the policies and procedures in this notice effective immediately
- ensure that COC's are following the provisions in this notice
- contact PSD with any questions about this notice.

B COC and County Office Action

COC shall:

- comply with the policies and procedures in this notice effective immediately
- comply with more restrictive provisions STC's may implement in the State
- ensure that all FSFL's are adequately secured
- contact the State Office for guidance if there are questions or concerns about procedure in this notice.

Instructions for Requesting and Paying for FSFL Real Estate Appraisals

All FSFL appraisals will be requested by the State Office due to:

- the appraisal being performed for CCC although the entire cost is the applicant’s expense
- a respective State Office’s procedure and policies required for processing of the appraisal request submitted by County Offices.

Notes: FSFL applicants will **not** be permitted to contact an appraiser to request an appraisal.

As the State Contracting Representative (COTR) routinely requests appraisals, that person should be consulted for appraisal ordering procedure.

Upon completion of the appraisal, the following shall be completed.

Step	Action
1	The appraiser shall submit the following to the State Office: <ul style="list-style-type: none"> • completed appraisal • invoice for the appraisal.
2	An FSA employee familiar with appraisals shall review the appraisal to ensure it is acceptable. FLP employees may use FSA-2165, if applicable.
3	The State Office shall forward the invoice and appraisal to the applicable County Office.
4	County Office shall: <ul style="list-style-type: none"> • pay the invoice through NPS using the code “XXFSFLAME” where “XX” indicates FY of FSFL according to 1-FI • immediately establish in NRRS a manual receivable in the loan applicant’s name for the amount of the invoice using the code “XXFSFLAME” according to 64-FI <p style="margin-left: 40px;">Note: When establishing the receivable, use the Basic Reason Code “Due Process Suspended” to prevent any letters from being generated at this time.</p> <ul style="list-style-type: none"> • send a copy of the invoice to the applicant • repay the receivable in NRRS when paid by the applicant.
5	If the receivable is not paid in full by the first partial or full loan disbursement: <ul style="list-style-type: none"> • use only FSFL Disbursement Option 2 according to 1-FSFL, paragraph 368 • set-off the amount of the NRRS receivable using “Other Agency Debt” procedures • on Screen VFC10010, make a separate entry for the NRRS amount • make this check payable to CCC and have sent to the County Office • when loan is closed, apply check to NRRS receivable. <p style="margin-left: 40px;">Note: NRRS receivables are not automatically off-set from loan proceeds.</p>

Authorized Methods for Determining the Value of FSFL Real Estate Security

A Acceptable Methods for Determining the Value of FSFL Real Estate Security

The following are acceptable methods for determining the value of FSFL real estate security.

IF the acceptable method is the...	THEN the real estate...
appraisal value	appraisal must: <ul style="list-style-type: none"> • be requested and paid for by applicant • be requested by State Office according to Exhibit 1 • be from an appraiser authorized by FLP and COTR • include the value of the real estate and the structure • be valued at least at 125 percent of the loan amount to adequately protect CCC security interest.
county tax assessed value	security value: <ul style="list-style-type: none"> • will be determined from current county tax bill for specified parcel or parcels, as applicable • may include a factor established from a documented percent used by the County Assessor to determine the current value of the real estate if the market value is not included on the tax bill <p>Note: See table in subparagraph 2 B.</p> <ul style="list-style-type: none"> • may include up to 50 percent of the county tax assessed value of the real estate if the facility is located on the real estate being mortgaged unless a more restrictive policy has been set by STC according to subparagraph 4 A.

Authorized Methods for Determining the Value of FSFL Real Estate Security (Continued)

B Determining the Value of FSFL Real Estate Security When Separate From FSFL Facility

Determine the value of the FSFL real estate security when separate from the FSFL facility according to the following.

Step	Action
1	Real estate security separate from the structure is only allowed when an adequate lien on the underlying real estate is not feasible and all of the following apply: <ul style="list-style-type: none"> • applicant owns separate acreage that is not subject to any other liens superior to CCC's • acreage of entire parcel is adequate in value as determined by 1 of the 2 methods in subparagraph A to adequately secure and insure full repayment.
2	Allow the value of the structure to equal 20 percent of the loan amount if all of the following apply: <ul style="list-style-type: none"> • CCC-297 obtained from owners of real estate where FSFL is located • UCC-1 filed on FSFL structure giving CCC first lien position • FSFL structure has collateral resale value according to 1-FSFL, subparagraph 24 C.