

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

Notice FSFL-76

**For:** State and County Offices

**Authorized Methods for Determining FSFL Real Estate Security Values**

**Approved by:** 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.

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

Notice FSFL-75 provided States and County Offices with authorized methods for determining the value of FSFL security. PSD received questions about the authorized methods included in Notice FSFL-75, and several State Offices provided valuable recommendations that would incorporate alternative methods for County Offices to use when determining the value of FSFL additional security.

The additional methods included in this notice will provide free or affordable options for County Offices to use when determining adequate security values for FSFL.

Disposal Date	Distribution
November 1, 2011 4-25-11	State Offices; State Offices relay to County Offices

## 1 Overview (Continued)

### B Purpose

This notice:

- ensures that:
  - there is consistency, from State to State, when determining the value of additional security
  - the determined values are assessed using verifiable documentation

**Note:** OIG is reviewing the FSFL Program and they have concerns about FSFL security values.

**Important:** 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.

- provides State and County Offices with authority to:
  - use authorized methods for determining FSFL security values
  - add the cost of the appraisal to the eligible net cost
  - assign a value:
    - up to 50 percent of the loan amount to the structure when using the current tax assessed value and other methods authorized in subparagraphs 3 B and 3 C, if the structure is located on the real estate to be mortgaged
    - of 20 percent of the loan amount to the structure when the structure is separate from the real estate collateral
  - require additional real estate security for a FSFL to equal at least 125 percent of the loan amount when using additional authorized methods in subparagraph 3 C
- obsoletes Notice FSFL-75.

## Notice FSFL-76

### 1 Overview (Continued)

#### C Effective Date

The provisions in this notice are retroactive to March 10, 2011, and shall be used for all FSFL's not yet approved **and** obligated, and for **all** new CCC-185's.

**Note:** Producers with approved and obligated CCC-185's are **not** required to follow the provisions in this notice; however, they may elect to use the provisions in this notice if their loan has **not** been disbursed.

#### D Contact

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

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

### 2 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 superior to CCC's lien on the property is obtained.

#### B FSFL Real Estate Security Separate From Collateral

Real estate liens may cover acreage separate from the collateral:

- according to 1-FSFL, subparagraph 24 F
- if the value of the real estate is determined by 1 of the methods in paragraph 3.

## 2 Real Estate Requirements (Continued)

### C Applying Value to FSFL Structure Separate From Real Estate

When FSFL real estate security is separate from FSFL collateral, the County Office may apply a value of no more than **20** percent of the loan amount to the structure 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 **must** have resale collateral value according to subparagraph D and 1-FSFL, subparagraph 24 C.

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

### D Resale Collateral Value

County Offices, with assistance from an FLP loan approval official, when necessary, shall determine resale collateral value based on local market conditions and depreciation factors.

**Note:** Resale collateral value is collateral that can be sold and moved to a new location for which compensation equal to the outstanding loan value can be expected.

In most cases, the resale collateral value will **not** equal the outstanding loan value if the collateral is moved or sold and will be less than its fair market value. The resale collateral value **must** be a reasonable price that CCC can expect to receive if the loan has to be liquidated. A reasonable valuation will provide security for both the borrower and CCC.

Resale collateral values provided by a qualified expert, such as an FSA employee delegated chattel appraisal authority according to 1-FLP.

## 2 Real Estate Requirements (Continued)

### E Determining Security Values for Existing Structures

No security value can be given to existing structures unless the value of the property is included in an appraisal or the tax assessment statement. STC's, COC's, and/or FLP employees shall **not** assign a value to an existing structure based on common knowledge obtained from others in the community.

## 3 Authorized Methods for Determining Value of FSFL Security

### A Real Estate Appraisal

To ensure that CCC is adequately secured and prevent potential losses to the Government, the real estate value on FSFL appraisals shall be at least **100** percent of the loan amount and security that is offered for FSFL's **must** be in salable units. The required 100 percent gives CCC the needed collateral support for FSFL.

FSFL applicants may request a real estate appraisal completed by an FLP-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. If the structure is **not** on the land being offered for collateral, the value of the structure is **not** considered in the appraisal.

During the appraisal process, the appraiser is provided information from the bids the applicant has received for the structure to determine the value the structure will add to the real estate.

The appraisal **must** be:

- completed before loan approval
- considered when the financial analysis is completed.

After the appraisal is completed, if it is determined adequate security collateral is not available, FSFL shall **not** be approved.

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### 3 Authorized Methods for Determining Value of FSFL Security (Continued)

#### A Real Estate Appraisal (Continued)

Third party appraisals are acceptable. The appraisal must be made on the real estate within the last 12 months by a bank or for FLP.

State Offices shall request and complete the required paperwork for appraisals according to Exhibit 1, but the entire cost of appraisals is at the applicant's expense.

Applicants may authorize the County Office to add the cost of the appraisal to the eligible net cost. If the applicant has paid for the appraisal in full before the final disbursement, the cost for the appraisal may be included in applicants required downpayment.

In **all** cases, follow Exhibit 1 to establish a receivable for the appraisal cost. The established receivable for the appraisal cost will be paid when FSFL is disbursed, if not previously paid.

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

- enter in 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 FSFL appraisal.

**Example 1:** CCC-185 submitted for a \$200,000 FSFL that 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** 100 percent required security value = \$200,000.

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

### 3 Authorized Methods for Determining Value of FSFL Security (Continued)

#### A Real Estate Appraisal (Continued)

**Example 2:** CCC-185 submitted for a \$200,000 FSFL that 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** 100 percent required security value = \$200,000.

Appraised value is adequate to secure FSFL.

#### 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.

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### 3 Authorized Methods for Determining Value of FSFL Security (Continued)

#### B County Tax Assessed Value (Continued)

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
60	1.6667
65	1.5385
75	1.3334
100	1.0000

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:** CCC-185 submitted for a \$250,000 FSFL that requires 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.



### 3 Authorized Methods for Determining Value of FSFL Security (Continued)

#### C Additional Authorized Methods

To ensure that FSFL's are adequately secured, County Offices must use the most practicable method and be conservative in judgment when determining the value of FSFL security.

If the following methods are available by county or regional areas, it is recommended that County Offices primarily use that method. County Offices, with the assistance of an FLP loan approval official, when necessary, are authorized to use the following methods when determining value of FSFL security:

- NASS Land Values and Cash Rents Summary published annually in August

**Note:** The NASS Land Values and Cash Rents 2010 Summary can be obtained at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1446>. The NASS publications may also be available for individual States by county or regional areas.

**Example:** The NASS Land Values and Cash Rents 2010 Summary was used to determine the value of crop land for 2011 for FSFL No# 2011-00002. The North Carolina 2010 Cropland Value was valued at \$2,520 per acre and is determined to be conservatively reasonable. Therefore, 120 acres of cropland times \$2,520 equals \$302,400. NASS Land Values and Cash Rents 2010 Summary, page 6 is filed in the producer's FSFL folder for reference.

- Market Value Estimate from an FLP loan approval official

**Note:** Must be documented and cannot use appraisals from other producers.

- NIFA Farm Land Value Surveys
- Land Grant University Published Reports
- State or county published Agricultural Sales and Median Ratio Report.

**Example:** 2010 Farmland Value Survey Iowa State University at [www.extension.IAstate.edu/agdm/wholefarm/html/c2-70.html](http://www.extension.IAstate.edu/agdm/wholefarm/html/c2-70.html).

**Important:** The authorized method selected must be maintained in FSFL folder or a referenced folder and include the methodology used to determine the security value for FSFL.

If any of the authorized methods in this subparagraph are used, and if authorized by STC, COC may assign a value to the structure of no more than **50 percent** of the **loan** amount **if** the structure is located on the property to be mortgaged.

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### 3 Authorized Methods for Determining Value of FSFL Security (Continued)

#### C Additional Authorized Methods (Continued)

The value of the structure and real estate must equal at least 125 percent of the loan.

State and County Offices **must** request a formal DAFP waiver according to 1-FSFL, paragraph 301 for authorization **before** using a method **not** listed in this subparagraph when determining FSFL security.

### 4 Alternate FSFL Financial Security

#### A Irrevocable Letter of Credit

FSFL applicants may obtain an irrevocable letter of credit from a financial institution. The irrevocable letter of credit must be for the total of the loan, plus interest, on the total principal for the entire first year.

#### B Usage Limitations

State Offices must check with their respective regional OGC to ensure that laws specific to their State are included in the irrevocable letter of credit.

The irrevocable letter of credit is considered sufficient security for FSFL when **all** requirements are met according to 1-FSFL, subparagraph 24 G.

**Note:** At this time, an irrevocable letter of credit **cannot** be used along with other methods.

### 5 Approvals and Actions

#### A Value of FSFL Security Approval Authority

Concurrence of determined value of FSFL security must be made according to this table.

IF loan amount is...	THEN concurrence of determined value of FSFL security must be made by...
\$100,000 or less	COC.
\$100,001 to \$250,000	COC after DD review.
\$250,001 to \$500,000	STC (STC can delegate approval to SED <b>only</b> ).

**Note:** See first table in 1-FSFL, subparagraph 2 F for exceptions applicable to FSA employees and their relatives.

A conditional loan approval may be issued dependent on an appraisal or other authorized method for determining adequate real estate security. The conditional loan approval must be documented on CCC-185, item 18. It must be conveyed to the applicant that CCC is **not** liable for the loan if the determined security value is not sufficient.

**5 Approvals and Actions (Continued)**

**A Value of FSFL Security Approval Authority (Continued)**

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.

**B STC and State Office Action**

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
- order appraisals following policy in Exhibit 1
- follow table in subparagraph A for concurrence of the determined value of FSFL security
- contact PSD with any questions about this notice, according to subparagraph 1 D.

**C 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
- ensure that the security value is applied to the loan amount and **not** to the total cost of the project
- contact the State Office for guidance if there are questions or concerns about procedure in this notice
- discuss with FSFL applicant that the appraisal can be added to the FSFL eligible net costs and considered when determining the FSFL downpayment
- follow table in subparagraph A for concurrence of the determined value of FSFL security
- ensure that all other applicant eligibility and equipment eligibility requirements are met according to 1-FSFL
- ensure the authorized method for determining value of FSFL security is maintained and documented in FSFL folder or a referenced folder and include the methodology used to determine the security value.

## Instructions for Requesting and Paying for FSFL Real Estate Appraisals

All FSFL appraisals will be requested by the State Office because of:

- 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.

FSFL applicants **may** authorize the County Office to add the cost of the appraisal to the eligible net costs and be used when determining the applicant's FSFL downpayment.

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	Appraiser (requested by COTR) shall submit the completed appraisal and invoice for the appraisal to the State Office.
2	FSA employee with administrative review authority shall review the appraisal to ensure that it is acceptable. Employee may use FSA-2165.
3	State Office shall forward the invoice and appraisal to the applicable County Office.
4	<p>County Office shall:</p> <ul style="list-style-type: none"> <li>• pay the invoice through NPS using the code "XXFSFLAME" where "XX" indicates FY of FSFL according to 1-FI</li> <li>• in NRRS, immediately establish a manual receivable in the loan applicant's name for the amount of the invoice using the code "XXFSFLAME" according to 64-FI</li> </ul> <p><b>Note:</b> When establishing the receivable, use the Basic Reason Code "<b>Due Process Suspended</b>" to prevent any letters from being generated at this time.</p> <ul style="list-style-type: none"> <li>• send a copy of the invoice to the applicant</li> <li>• repay the receivable in NRRS when paid by the applicant.</li> </ul>
5	<p>If the receivable is <b>not</b> paid in full by the first partial or full loan disbursement:</p> <ul style="list-style-type: none"> <li>• use only FSFL Disbursement Option 2 according to 1-FSFL, paragraph 368</li> <li>• set-off the amount of the NRRS receivable using "Other Agency Debt" procedures</li> <li>• on Screen VFC10010, make a separate entry for the NRRS amount</li> <li>• make this check payable to CCC and have sent to the County Office</li> <li>• when loan is <b>closed</b>, apply check to NRRS receivable.</li> </ul> <p><b>Note:</b> NRRS receivables are <b>not</b> 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 (see subparagraph 3 A)	appraisal must: <ul style="list-style-type: none"> <li>• be requested and paid for by applicant</li> <li>• be requested by State Office according to Exhibit 1</li> <li>• be from an appraiser authorized by FLP and COTR</li> <li>• include the value of the real estate <b>and</b> the structure</li> <li>• be valued at least <b>100</b> percent of the loan amount to adequately protect CCC security interest.</li> </ul>
county tax assessed value (see subparagraph 3 B)	security value: <ul style="list-style-type: none"> <li>• will be determined from current county tax bill for specified parcel or parcels, as applicable</li> <li>• 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</li> </ul> <p><b>Note:</b> See table in subparagraph 3 B.</p> <ul style="list-style-type: none"> <li>• may include up to <b>50</b> percent of the loan amount, if the facility is located on the real estate being mortgaged unless a more restrictive policy has been set by STC according to subparagraph 5 A.</li> </ul>
additional authorized methods (see subparagraph 3 C)	security value is determined using an additional authorized method and may include up to <b>50</b> percent of the loan amount, if the facility is located on the real estate being mortgaged <b>unless</b> a more restrictive policy has been set by STC according to subparagraph 5 A. <p>The real estate and structure, if applicable, must be valued at least 125 percent of the loan amount to adequately protect CCC's security interest.</p>

**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 FSFL real estate security when separate from FSFL facility according to the following.

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