

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

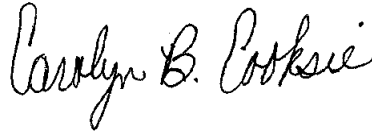
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**Regular Direct Loan Servicing  
4-FLP**

**Amendment 3**

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**Approved by:** Deputy Administrator, Farm Loan Programs



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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 31 B has been amended to update a reference.

Subparagraph 47 B has been amended to clarify the graduation process.

Subparagraph 64 C has been amended to reference VRU that is available to FSA borrowers for loan status information.

Subparagraph 65 A has been amended to clarify signature and initial requirements.

Subparagraph 147 A has been amended to clarify conditions for releasing valueless liens.

Subparagraph 231 C has been amended to clarify approval authority for releasing personal liability.

Subparagraph 246 B has been added to address ST transfer and assumption.

Subparagraph 249 E has been amended to clarify using FSA-2025.

Part 13 has been added to provide guidance on servicing borrowers with both FSA and RD loans.

Exhibits 23 and 33 have been amended to update references in the instructions.

Exhibit 26 has been amended for simplification and clarity.

Exhibit 28 has been amended for clarity.

**Amendment Transmittal (Continued)**

| <b>Page Control Chart</b> |  |   |
|---------------------------|--|---|
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**Part 3 Limited Resource Loans****31 Reviewing a Borrower's Account****A Overview**

This Part describes the process for routine interest rate review of limited resource loans.

**B Borrower Account Reviews**

**[7 CFR 765.51(a)] A borrower with limited resource interest rate loans is required to provide the Agency annually the operation's financial information to determine if the borrower can afford to pay a higher interest rate on the loan. The Agency will review the information provided in accordance with § 761.105 of this chapter (1-FLP, \*--paragraph 263).--\***

The authorized agency official will usually review borrower accounts during the year-end analysis; however, reviews may be completed at any time.

**Note:** See 1-FLP, Part 8, Section 5 for more information on the year-end analysis.

Based on results of the review, the authorized agency official may adjust the interest rate, if the:

- borrower's debt service margin shows that the borrower can afford to pay a higher interest rate according to subparagraph 32 A
- borrower makes a request to be removed from limited resource rates according to subparagraph 32 B
- borrower defaults on the loan agreements according to subparagraph 32 C.

The authorized agency official must approve the interest rate change by signing and dating the "8R", "Interest Rate Adjustment" ADPS transaction screen print. Additionally, the interest rate change will be reflected in FBP credit decision documents. Both documents should be filed in the borrower case file. The "8R" ADPS transaction will be attached to the promissory note.

When a review is completed and no change is to be made to the borrower's interest rate, an "8M", "Limited Resource Loan Review" ADPS transaction will be processed reflecting the date the review was completed. A screen print of this transaction will be signed and dated by the authorized agency official and filed in the borrower's case file.

## 32 Increasing and Decreasing Interest Rates

### A Debt Service Margin

**[7 CFR 765.51(b)] If the borrower's farm operating plan shows that the debt service margin exceeds 110 percent, the Agency will increase the interest rate on the loans with a limited resource interest rate until:**

- (1) A further increase in the interest rate results in a debt service margin of less than 110 percent; or**
- (2) The interest rate is equal to the interest rate currently in effect for the type of loan.**

TDCLCR from FBP is used to establish eligibility for limited resource rates. TDCLCR is located in the Repayment Capacity/Sensitivity and the Ratio/Indicators Reports within FBP.

If TDCLCR exceeds 110 percent, the authorized agency official will recalculate the borrowers total debt repayment by replacing the current interest rate with an interest rate that is 1 percentage point above the current interest rate. If the current regular interest rate is less than 1 percent higher than the borrower's existing limited resource rate, the authorized agency official will:

- apply the regular interest rate to the total debt repayment calculation
- recalculate the borrower's TDCLCR using the new total debt repayment amount.

This process is repeated, using increments of 1 percent, if needed, until the interest rate that allows the borrowers TDCLCR to be as close to, but not less than, 110 percent is identified or the regular interest rate currently in effect has been achieved. Increments of less than 1 percent may only be used to reach the regular interest rate currently in effect.

**Example:** The current interest rate for the type of loan is 7.25 percent. The limited resource interest rate is 5 percent. After increasing the interest rate by full percentage points to 7 percent, if the 110 percent TDCLCR requirement can still be met, the rate may be increased by 0.25 percent to reach the current full interest rate for the type of loan.

If the borrower has more than 1 limited resource loan, the authorized agency official will alternate increasing the interest rate on 1 loan at a time, until the borrowers TDCLCR is as close as possible, but not less than, 110 percent or the regular interest rate currently in effect has been reached for all existing limited resource loans.

47 **Graduation Review Process****A Obtaining Underwriting Criteria From Local Lenders**

Each October, the authorized agency official shall contact local lenders to obtain their underwriting criteria for making agricultural loans. Information gathered from these contacts will be summarized on Exhibit 22, with any additional comments in narrative form, and placed in the county operational files FLP 2-2 “Agriculture Lender Contacts” and FLP 4-2 “Graduation”, according to 25-AS. At a minimum, the narrative for each lender will contain the following:

- lender’s interest in refinancing FSA borrowers, including interest in receiving the graduation prospectus described in subparagraph D
- lender’s rates, terms, fees, loan conditions, and policies for annual operating, term operating, and real estate loans.

**B Obtaining Financial Data**

**\*--[7 CFR 765.101(c)] The borrower must submit all information that the Agency requests in conjunction with the review of the borrower’s financial condition.**

The borrower will provide upon agency request, a current balance sheet, actual financial performance, and a projected farm budget at least every 2 years. Except for borrowers with only youth loans or whose accounts are flagged “bankruptcy”, “acceleration”, “FP Cap”, or “other” as determined by OGC, the authorized agency official will send Exhibit 23 and the--\* required forms to request current financial information from the borrower to evaluate the potential for refinancing to commercial credit. Exhibit 23 will be sent twice if the borrower does not supply the required information. The first time Exhibit 23 is sent, the borrower will be given 30 calendar days to supply the required information. The second Exhibit 23 will be sent on day 15, only if the required information has not been submitted and will give the borrower 15 calendar days to submit the required information. If the borrower has provided the financial information required to conduct a year-end analysis, or current financial data is \*--available for other reasons, this same information may be used in the graduation review--\* process. The borrower’s financial information will be utilized to classify accounts according to 1-FLP, Part 8.

**C Screening Borrowers**

The authorized agency official will screen all borrowers classified as a “1” or “2” (commercial or standard) on RC 736, by comparing local underwriting criteria with the most recent financial information provided by the borrower. Borrowers with limited resource interest rates, and youth loan borrowers under 18 years of age, will be excluded from graduation regardless of the classification code. If the borrower’s financial information indicates they cannot meet local underwriting criteria, the authorized agency official shall document why the borrower, despite being classified a “1” or “2,” is unlikely to graduate. The authorized agency official will record this on RC 736 and in the borrower’s individual case file. RC 736 will be placed in operational file FLP 4-2, according to 25-AS.

If the borrower’s financial information indicates that the borrower meets local underwriting criteria and graduation is possible, the borrower’s prospectus will be forwarded according to subparagraph D.

47 **Graduation Review Process (Continued)****D Sending Prospectus**

**[7 CFR 765.101(d)] The Agency may provide a borrower’s prospectus to lenders in an attempt to identify sources of non-Agency credit and assess the lenders’ interest in refinancing the borrower’s loan. The Agency will notify the borrower when the borrower’s prospectus is provided to one or more lenders.**

If the borrower’s financial information indicates they meet local underwriting criteria, the authorized agency official will:

- include the borrower’s name, loan type, balance sheet, and projected cash flow on Exhibit 24
- send Exhibit 24 to commercial lenders.

Exhibit 24 asks lenders to indicate an interest in further review of borrowers listed. The lenders review will determine if they would be willing to refinance FSA.

When an authorized agency official includes a borrower’s information on Exhibit 24 and sends it to a lender, a copy of Exhibit 24 will be sent to the borrower with a cover letter with language similar to:

“Enclosed, please find Exhibit 24. This exhibit has been sent to several lenders in the area so they could review your financial information and consider refinancing your FSA account.”

**E Applying for Commercial Credit**

**[7 CFR 765.101(e) If a lender expresses an interest in refinancing the borrower’s FLP loan, the borrower must:**

- (1) Apply for a loan from the interested lender within 30 days of notice; or**
- (2) Seek guaranteed loan assistance under the market placement program in accordance with section 762.110(g) of this chapter (2-FLP, paragraph 72).**

An authorized agency official will assist the borrower with completion of an application for guaranteed loan, if a lender expresses an interest in providing assistance with a guarantee.

See 2-FLP for information on guaranteed loans.



61 General (Continued)

**E Canceling Undisbursed Loan Funds**

After a loan has been closed, FSA-2425 will be used to cancel the obligation of funds that will not be used by the borrower. No interest accrues, since the funds were obligated, but not advanced.

FSA-2072 must also be prepared and submitted with a copy of FSA-2425 to FSC, FLOO at the following address:

USDA, FSA, FSC, FLOO, FC-533  
PO BOX 200003  
\*--ST LOUIS MO 63120-0003.--\*

The original FSA-2425 with the borrower's signature will be stapled to the original promissory note in the locking-type, fire-resistant file cabinet. A copy of FSA-2425 will be placed in the borrower's file in position 2 with the note and an ADPS Unclosed (UN) Screen \*--screen-print, after completion of the deobligation by FLOO.--\*

FSC, FLOO's record of the loan will indicate the loan amount was reduced after deobligation. Keeping the FSA-2425 with the promissory note (both original and copy) is the paper trail evidence that the loan amount was reduced after closing and the borrower consented.

DLS will be updated as required.

**62 Regular Payments****A Applying Regular Payments**

**[7 CFR 765.153(a)] A regular payment is credited to a scheduled installment on FLP direct loans and Non-program loans. Regular payments are applied to loans in the following order:**

- (1) Annual operating loan;**
- (2) Delinquent FLP installments, paying least secured loans first;**
- (3) Non-delinquent FLP installments due in the current production cycle in order of security priority, paying least secured loans first;**
- (4) Any future installments due.**

Regular payments received will be credited by FSC, FLOO to loans in the order provided in subparagraph 64 A, beginning first with administrative costs and protective advances plus interest. Administrative costs and protective advances will only add on to FO and SW. For other loan types, a new loan account is established. The loan number for these loans is generally between 75 and 99. Any protective advance or administrative cost charged back to a borrower's account is immediately due and payable.

**62 Regular Payments (Continued)****B Regular Payments From Real Estate Sale Security With SED Approval**

**[7 CFR 765.152(c)] Notwithstanding any other provision of this section, payments derived from the sale of real estate security will be treated as regular payments at the Agency's discretion, if the FLP loans will be adequately secured after the transaction.**

When FSA becomes aware that the borrower is selling all or a portion of the real estate security, FSA-2060 should be requested from the borrower. When FSA receives the payment from the sale of real estate security, the authorized agency official must consult FSA-2060 to determine the loan to which the payment should be applied, generally in the order of lien priority.

**Note:** If the borrower requests that payments resulting from the sale or exchange of real estate security be applied to current, delinquent, or unmatured loan installments; the borrower, with the assistance of the authorized agency official, must complete and submit FSA-2060. Only SED's may approve this application of funds. The authorized agency official will forward the completed FSA-2060 and any other materials required to SED for review. The authorized agency official will inform the borrower of the decision and provide appeal rights according to 1-APP, if FSA-2060 is not approved.

**63 Extra Payments**

**A Applying Extra Payments**

**[7 CFR 765.153(b)] An extra payment is not credited to a scheduled installment and does not relieve the borrower’s responsibility to make scheduled loan installments, but will reduce the borrower’s FLP indebtedness. Extra payments are applied to FLP loans in order of lien priority except for refunds of unused loan funds, which shall be applied to the loan for which the funds were advanced.**

**64 Distributing Payments to Loans**

**A Order**

**[7 CFR 765.154] The Agency applies both regular and extra payments to each loan in the following order, as applicable:**

- (a) Administrative costs and protective advances plus interest;**
- (b) Deferred non-capitalized interest;**
- (c) Accrued deferred interest;**
- (d) Interest accrued to date of payment; and**
- (e) Loan principal.**

**B Distribution**

Distribute payments according to the following.

| <b>IF the loan...</b>  | <b>THEN...</b>   |
|--|--|
| number is identified correctly on the payment information  | FSC, FLOO will automatically distribute the payment to borrower debt according to subparagraph A.                        |
| costs are separate from their parent loan (usually identified by loan numbers between 75 and 99) | the payment needs to be specifically identified to be applied to those loan cost accounts and then to the original loan. |

**C Notification of Account Activity and Status**

\*--FSC, FLOO will forward to the borrower and the local FSA office:

- “Reminder of Payments to be Made”, 60 calendar days before the installment due date, that shows the borrower the installments due on each loan and provides VRU telephone number (1-888-518-4983)

**Note:** VRU is a secure automated system that requires a PIN number, and guides borrowers in obtaining the status of their loans at any time. If further loan information is needed, such as a payoff amount, borrowers are directed to call the FSA office.

- FSA-2065 annually, that shows the loan status, all transactions completed during the calendar year, and VRU telephone number.--\*

## 65 Final Payments

### A Calculating the Final Payment

When FSA is notified of the date the borrower will make the final payment, the authorized agency official calculates the final payoff amount by checking the “TPOF” field of the ADPS AI and PF Status Screens.

The authorized agency official shall verify that no other accounting transactions are pending that would affect the payoff amount. This may include, but is not limited to, payments that may not yet have been applied, loan costs that may not be posted on the account yet, interest rate changes, accounting corrections, and shared appreciation recapture.

\*--Final payoffs shall be verified by 2 agency officials to lessen the possibility of an incorrect payoff amount being provided. Both officials will sign and date Exhibit 26 and initial the--\* AI and PF Status Screens and any other documentation to certify the amount. Exhibit 26 will be forwarded to the borrower.

### B Supervised Bank Accounts

If a borrower has a supervised bank account, the authorized agency official may apply any remaining funds in the account to the final payoff, or release the remaining funds in the supervised bank account to the borrower after they have paid the account in full.

See 1-FLP, Part 4 for more information on supervised bank accounts.

### C Overpayment

**[7 CFR Part 765.155(c)] If an Agency miscalculation of a final payment results in an overpayment by the borrower of less than \$10, the borrower must request a refund from the Agency in writing. Overpayments of \$10 or more automatically will be refunded by the Agency.**

The authorized agency official sends any borrower requests for refund of overpayments to FSC, FLOO and forwards refunds issued by FSC, FLOO to the borrower.

## 65 Final Payments (Continued)

**D Underpayment**

**[7 CFR Part 765.155(d)] If an Agency miscalculation of a final payment amount results in an underpayment, the Agency may collect all account balances resulting from its error. If the Agency cannot collect an underpayment from the borrower, the Agency will attempt to settle the debt in accordance with subpart B of 7 CFR part 1956.**

If the authorized agency official discovers that the borrower underpaid FSA in an amount that exceeds \$10, the account will be serviced according to 5-FLP, Part 10.

If the promissory notes or security instruments have been released, the authorized agency official will immediately request guidance from the State Office, who will consult OGC.

If voluntary payment is not made to pay the debt in full, if a compromise offer is not made or accepted, or if court action is not initiated to collect the debt, the account will be referred for collection under TOP and cross-servicing after appropriate notice, if the remaining debt exceeds \$100.

Debt cancellations over \$10 will only be processed after all other attempts to collect the debt have been exhausted.

**Section 5 Release of Real Estate and Chattel Security Liens Without Monetary Consideration**

**146 Release Without Monetary Consideration**

**A Release Because of Mutual Mistakes**

SED's can authorize a release because of mutual mistakes only when they do all of the following:

- determine that a mutual error existed when the security was included in FSA's mortgage or lien
- obtain OGC's advice on whether a mutual mistake was made
- substantiate that the mistake was made
- document the findings in the borrower's case file.

**B Release Because of No Evidence of Indebtedness**

The authorized agency official may release a borrower's mortgage or lien, if the records of State and County Offices and FSC, FLOO contain no evidence of an existing indebtedness secured by the mortgage or lien.

**Note:** The authorized agency official should verify that the borrower has no outstanding debt with the Rural Housing and Rural Development Finance Offices.

## 147 Releasing Valueless Liens

### A Conditions for Releasing Valueless Liens

\*--SED's are authorized to release FSA mortgages or other liens, if 1 of the following is determined:

- the mortgage or lien has no present or prospective value
- enforcement of the mortgage or lien would be ineffectual or uneconomical.

SED authority may:

- **only** be exercised as follows:
  - for the borrower to convey title of the property to a third party
  - if the Government is liquidating the security
  - because of litigation.
- **not** be redelegated; however, an acting SED may approve releases.--\*

SED's cannot release a valueless judgment lien or valueless statutory redemption rights, except with OGC's consent.

### B Information Required to Release a Valueless Lien

To determine the present or prospective value of the security to be released, the authorized agency official should obtain all of the following:

- market value appraisal report on the security prepared according to 1-FLP, Part 6 except in cases in which FSA determines that the lien is invalid
- names of the holders of prior liens on the property
- written verification of the amount secured by each lien that is before FSA's
- amount of taxes or assessments
- other items that might constitute a prior claim.

The authorized agency official must document this information in the borrower's case file and submit it to SED for review.

## 148-160 (Reserved)



**198 Appraisals****A Appraisal Requirements**

**[7 CFR 765.353(a)] (1) The Agency will obtain an appraisal of the security proposed for disposition.**

**(2) The Agency may waive the appraisal requirement when the estimated value is less than \$25,000.**

**[7 CFR 765.353(b)] The Agency will obtain an appraisal of the remaining security if it determines that the transaction will reduce the value of the remaining security.**

A new appraisal report for the security to be:

- transferred or released will be obtained when the authorized agency official believes it necessary to protect the financial interests of the Government or when the transaction involves more than \$25,000
- retained will only be obtained when the authorized agency official determines that the value of the retained property could be adversely affected by the loss of the transferred or released property.

Appraisal reports under this section may show the current market value of the property being transferred or released, and the property being retained, on a single appraisal report or on separate appraisal reports.

The value of rights to mining products, gravel, oil, gas, coal or other minerals will be specifically included as a part of the appraised value of the real estate security.

**[7 CFR 765.353(c)] Appraisals, when required, will be conducted in accordance with § 761.7 of this chapter (1-FLP, Part 6).**

**\*--199 Approving or Denying Partial Releases--\***

**A Approval Authority**

Approval officials may approve partial releases when FSA indebtedness, after the transaction, does not exceed their approval authority for the type of loan or a combination of types of loans according to 1-FLP, subparagraph 29 D. When more than 1 type of loan is involved in the transaction, the loan approval authority of the approval official will be the highest combination amount authorized in 1-FLP, subparagraph 29 D for any loan types involved. SED is authorized to approve any transaction consistent with this section.

**200-210 (Reserved)**

**231 Withdrawal Requirements (Continued)**

**C Approval Authority**

\*--When FSA's debt plus prior liens, less the market value, is \$1 million or more (including--\* principal, interest, and other charges), FSA-2080's must be approved by the Administrator or designee. FLM's may approve FSA-2080's when all FLP security is transferred and the total outstanding FLP debt is assumed; otherwise, SED's must approve FSA-2080's. All cases requiring FSA-2080's from SED's will be submitted for review or debt settlement under RD Instruction 1956-B.

If the borrower is delinquent, FSA will consider FSA-2080's according to 5-FLP, subparagraph 84 D.

**232-245 (Reserved)**



## Part 9 Transfer of Real Estate and Chattel Security

### 246 Transfer of Security and Assumption of Debt

#### A General

**[7 CFR 765.401(a)] (1) Approval of a security transfer and corresponding loan assumption obligates a new borrower to repay an existing Agency debt.**

**(2) All transferees will become personally liable for the debt and assume the full responsibilities and obligations of the debt transferred when the transfer and assumption is complete. If the transferee is an entity, the entity and each member must assume personal liability for the loan.**

**(3) A transfer and assumption will only be approved if the Agency determines it is in the Agency's financial interest.**

FBP for the new entity must demonstrate the repayment ability and management capacity of the transferee.

**[7 CFR 765.401(b)] A borrower must request and obtain written Agency consent prior to selling or transferring security to another party.**

FSA requires the transfer and assumption of security and FSA debt when:

- a new borrower wants to replace the existing borrower
- a new member wants to join the borrower entity
- an entity member withdraws when remaining entity members are not personally liable for the debt.

**Note:** For the purposes of this Part and Part 8, an entity is defined as a husband and wife, partnership, corporation, or any other arrangement in which more than 1 person is party to the debt.

#### \*--B ST's

ST's will only be transferred on NP rates and terms according to subparagraph 248 E, unless transfer is required because of the death of a borrower, in which case transfer will be considered according to Part 10.--\*

**246 Transfer of Security and Assumption of Debt (Continued)****C Junior Liens**

When a transferee assumes:

- the transferor's entire FSA debt, SED's must concur with the proposed transfer of any junior liens
- less than the full amount of FSA's debt, junior liens to the assumed debt are prohibited.

**D Partial Transfer and Assumption**

A borrower may transfer FSA indebtedness in whole notes only. The borrower and transferee may not split an individual loan. The borrower must demonstrate that a proposed partial sale is in the best financial interest of the operation and that the sale will not adversely affect the security and/or Government's financial interest.

The compensation received by the transferor and applied to the transferor's FSA debt may not be less than the \* \* \* market value of the property sold.

When the value of the property exceeds the debt to be assumed, the transferee may pay with cash on hand or obtained through credit. FSA applies such cash payment to the transferor's indebtedness according to Part 5.

**E Determining the Assumption Amount**

**[7 CFR 765.403(d)] The transferee must assume the lesser of:**

- (1) The outstanding balance of the transferor's loan; or**
- (2) The market value of the security, less prior liens and authorized costs, if the outstanding loan balance exceeds the market value of the property.**

**F Determining the Value of the Security Property**

The value of the security property must be determined before approving a transfer and assumption. Appraisals will be conducted according to 1-FLP, Part 6. The appraisal determines the value of the security and the amount of the indebtedness that may be assumed.

## 248 Assumption Terms (Continued)

**F Modification of Security Instruments**

Covenants in promissory notes and/or security instruments (mortgage or deed of trust) relating to graduation to other credit, inability to secure other financing, restrictions on leasing, FLP operation requirements, and consent to junior lien encumbrance will be deleted. Deletions are made by lining through only the specific inapplicable language with both the NP borrower and the approval official initialing the changes.

**G Transfer from a NP Borrower**

**[7 CFR 765.403(b)] Applicants eligible for FO loans under part 764 (3-FLP) of this chapter may assume Non-program loans made for real estate purposes if the Agency determines the property meets program requirements. In such case, the Agency will reclassify the Non-program loan as an FO loan.**

When a NP borrower proposes to sell security property, the authorized agency official may approve assumption of indebtedness on program or NP terms based on the eligibility of the transferee.

FSA does not release NP borrowers of liability.

**249 Reviewing Transfer Request****A Reviewing Required Documents**

The authorized agency official will review the transfer request to assure that the documents required are present and complete according to paragraph 247. See 1-FLP, Part 2 for transfer and assumption approval authority.

If the required documents are incomplete or additional information is needed, FSA will request the transferor and the transferee to provide the additional information, as appropriate. The authorized agency official must inform the transferor and the transferee that FSA will not process the transfer request until the application is complete.

**B Insurance Requirements**

A transferee must obtain insurance according to 3-FLP, Part 6.

**C Title Clearance**

A transferee must obtain title clearance and legal services for closing a transfer according to 3-FLP, Part 11. FSA does not require title clearance and legal services when the interest of a liable party on the note is conveyed to another liable party who assumes the total indebtedness at same rates and terms.

**D Reviewing Loan Application**

The authorized agency official will review the application according to this Part and 3-FLP, Part 3.

**E Approving or Denying the Transfer and Assumption**

\*--The authorized agency official will use FSA-2025 to document approval of a transfer and--\* assumption.

If FSA rejects the transfer and assumption request, the authorized agency official will notify the borrower of appeal rights according to 1-APP.



**291 Procedures and Servicing Responsibility (Continued)****D Receiving Office Responsibilities**

New security instruments are necessary for borrower relocations and borrower crop and chattel relocations, unless other guidance is provided through a State supplement or from the Regional OGC.

The receiving County Office must obtain a new UCC1 and FSA-2028 (3-FLP, Part 10) when a borrower moves:

- to a new farm and crops or fixtures on new real estate will serve as security
- to a new farm which is to serve as security
- FSA chattel security to a new County Office location.

The receiving County Office must obtain a new UCC1 and FSA-2028 as soon as possible, but no later than 30 calendar days after the borrower's move.

If the borrower does not execute the new instruments, the County Office shall refer the case to SED with recommendations for appropriate action. Normally, the receiving County Office will notify the borrower according to 5-FLP, subparagraph 66 A (3) and proceed to liquidation with the assistance of the transferring County Office. For interstate moves, the receiving County Office must execute and file a new UCC1 with the following text:

“The above collateral was brought into \_\_\_\_ from \_\_\_\_ County, State of \_\_\_\_, subject to a security interest of the Secured Party.”

The receiving County Office should see the applicable State supplement for instructions and guidance on lien searches.

**292-300 (Reserved)**



**\*--Part 13 Servicing Borrowers With Both FSA and RD Loans**

**301 General Servicing Procedures**

**A Payoff Requests**

If a borrower with both FSA and RD loans requests payoff information from FSA, the agency official shall:

- provide the payoff information according to paragraph 65
- remind borrower of the RD loans
- provide information on how to request payoff information from RD.

**B Graduation and Classification**

For graduation requirements see Part 4. For classification requirements see 1-FLP, Part 8, Section 4.

**Note:** Copies of financial statements, cash flows, and other related documents may be shared by FSA and RD.--\*

**\*--301 General Servicing Procedures (Continued)****C Partial Release, Subordination, and Consent**

A request for partial release, subordination, and consent (for FSA this is FSA-2060) for security instruments that describe both the FSA and RD loan must be approved by both agencies. The agency receiving the request shall take the lead in processing the request.

**Note:** Borrowers may submit 1 request only.

The agency receiving the request will obtain any appraisals needed. Appraisal for farm tracts must meet the requirements of 1-FLP, Part 6, and appraisals for nonfarm tracts must meet RD requirements. Authority to execute these actions will be based on the established policies and procedures of each agency. FSA's policies and procedures are set forth under 1-FLP, Parts 6 and 7.

Response to the borrower's request will be issued by the agency that received the request.

If both agencies cannot approve the borrowers' request, the request will be denied and appeal rights provided. The denial will be issued by the lead agency. If only 1 agency cannot approve the borrowers' request, that agency will send the denial letter and provide appeal rights according to the agency's established procedures.

**Note:** Adverse decision letters issued by FSA must comply with 1-APP.--\*

**\*--301 General Servicing Procedures (Continued)**

**D Releasing Joint Security Instruments**

FSA and RD State Office approval is required to release security instruments that describe both an FSA and RD loan. If all the security cannot be released because of outstanding obligations by the other agency, then do the following.

| Step | Action  |  |
|------|---|--|
| 1    | <b>IF...</b>  | <b>THEN...</b>   |
|      | FSA's debt is paid in full or satisfied first   | FSA will send the original joint security instruments to RD with a letter indicating satisfaction of FSA debt. |
|      | RD's debt is paid in full or satisfied first  | RD will send FSA a letter indicating satisfaction of RD debt.  |
| 2    | Return the promissory notes according to applicable agency procedures. FSA may return promissory notes to the borrower according to subparagraph 65 F.  |  |
| 3    | Attach a copy of the releasing agency's letter, if applicable, to the original security instruments.  |  |
| 4    | The remaining agency will release the security instruments when appropriate. After all debt against the security instrument has been paid in full or satisfied, FSA may release the security instrument according to subparagraph 65 F. |  |

**E Determining Lien Position When Both FSA and RD Loans Were Made at the Same Time**

The lien position is shared by both FSA and RD when the FSA FLP and RD loans were made at the same time, or the security was taken at the same time, and included on the same mortgage or deed of trust. The amount of the lien is proportionate to the total amount of debt owed on these loans. See 5-FLP, Exhibit 79 for calculating the proportionate share of security value for sales by borrower or losses covered by insurance.--\*

**\*--301 General Servicing Procedures (Continued)**

**F Losses Covered by Insurance**

If insurance proceeds will be used to repair or replace joint security property, the agencies must decide which agency will oversee and approve the repairs and replacements and make all required inspections. Normally, the agency holding the greatest proportion of security value will be responsible for seeing that any repairs or replacements are completed. However, these duties may be shared by both agencies to the extent that FSA may handle all farm property and RD may handle all single family housing property. Copies of development plans and inspections shall be shared with the other agency. If FSA is responsible for supervision of repairs, see 1-FLP, Part 5.

Insurance proceeds to be applied against the debt will be applied based on lien priority according to subparagraph 301 E. Both agencies must approve any release of insurance proceeds of joint security property.

**G Labor Housing Loans**

If the security is the same for both FSA and/or Labor Housing loan, servicing will be handled according to this paragraph.--\*

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

## Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

| <b>Approved Abbreviation</b> | <b>Term</b>  | <b>Reference</b>         |
|------------------------------|--|--------------------------|
| ADPS                         | automated discrepancy processing system                | 31, 248, 267, 268, 282   |
| AI                           | account information                                    | 65                       |
| CFS                          | Central Filing System                                  | 102                      |
| CONACT                       | Consolidated Farm and Rural Development Act            | 1, Ex. 2                 |
| DLS                          | Direct Loan Servicing                                  | 61                       |
| DOJ                          | Department of Justice                                  | 282, 283, 291            |
| EE                           | economic emergency loan                                | 16, 248                  |
| EM                           | emergency loan   | 16, 61, Ex. 2            |
| FBP                          | Farm Business Plan                                     | Text                     |
| FLM                          | Farm Loan Manager                                      | Text                     |
| FSC, FLOO                    | Financial Services Center, Farm Loan Operations Office | Text                     |
| FO                           | farm ownership loan                                    | Text, Ex.1, 21, 23       |
| GL                           | guide letter   | 2                        |
| MAC                          | Management of Agricultural Credit                      | Text                     |
| NP                           | nonprogram loan  | 16, 46, 62, 266, 248     |
| NRBRA                        | Net Recovery Buyout Recapture Agreement                | 97                       |
| OL                           | operating loan   | 16, 283, Ex. 2, 21, 23   |
| PF                           | Payoff Balance   | 65                       |
| PIN                          | personal ID number                                     | 63                       |
| PLAS                         | Program Loan Accounting System                         | Ex. 2                    |
| RC                           | report code  | Text                     |
| RD                           | Rural Development                                      | 2, 231, 301              |
| RHF                          | rural housing loan for farm service buildings          | 16, 248                  |
| RL                           | recreation loan  | 16, 248                  |
| SAA                          | Shared Appreciation Agreement                          | 117, Ex. 2               |
| SCIMS                        | Service Center Information Management System           | 248, 267, 268, 282       |
| ST                           | softwood timber loan                                   | 16, 196, 246             |
| SW                           | soil and water loan                                    | 16, 62, Ex. 2            |
| TDCLCR                       | Term Debt and Capital Lease Coverage Ratio             | 32                       |
| TOP                          | Treasury Offset Program                                | 65, 282                  |
| TTPP                         | Tobacco Transition Payment Program                     | 212                      |
| UCC                          | Uniform Commercial Code                                | 98, 166, 247, 291, Ex. 2 |
| VRU                          | Voice Response System                                  | 63                       |

## Re delegations of Authority

SED's may redelegate their authority to approve subordinations to qualified State Office employees.





## Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Shared Appreciation Agreement**

**Shared Appreciation Agreement** is an agreement between the Agency, or a lender in the case of a guaranteed loan, and a borrower on the appropriate Agency form that requires the borrower who has received a writedown on a direct or guaranteed loan to repay the Agency or the lender some or all of the writedown received, based on a percentage of any increase in the value of the real estate securing an SAA at a future date.

**Subordination**

**Subordination** is a creditor's temporary relinquishment of all or a portion of its lien priority in favor of another creditor, providing the other creditor with a priority right to collect a debt of a specific dollar amount from the sale of the same collateral.

**Subsequent Loan**

A **subsequent loan** is any FLP loan processed by the Agency after an initial loan of the same type has been made to the same borrower.

**Transfer and Assumption**

**Transfer and assumption** is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

**Trust**

**Trust** is an entity that under applicable state law meets the criteria of being a trust of any kind but does not meet the criteria of being a farm cooperative, private domestic corporation, partnership, or joint operation.

**Unauthorized Disposition Of Chattel Security**

**Unauthorized disposition of chattel security** is the sale of chattel security not authorized by FSA before the sale.

**\*--VRU**

**VRU** is a secure automated system that requires a PIN number, and guides borrowers in obtaining the status of their loans at any time. If further loan information is needed, such as a payoff amount, borrowers are directed to call the FSA office.--\*



## Request for Graduation Information

The authorized agency official will send a letter similar to the following to the borrower to request \*--current financial information according to 1-FLP, subparagraph 202 B. The borrower's financial information will be used to classify accounts according to 1-FLP, paragraph 251. Go to--\* <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK "Find Current Forms Using Our Form Number Search", in Form Number block, type, "4-FLP Exhibit 23", and CLICK "Submit". \*--

4-FLP, Exhibit 23

(Use Agency Letterhead format with local return address.)

### REQUEST FOR GRADUATION INFORMATION

Dear:

At the time you obtained your loan from the Farm Service Agency (FSA), you were unable to get the credit you needed from conventional lenders. The objective of the FSA credit program is to provide you with temporary credit assistance. Once you become financially able to obtain credit from conventional lenders, you are required to obtain the credit you need to refinance and pay off your FSA loan.

Agency regulations require that we complete a review of your financial status and the progress you are making. In order to complete an accurate review, we ask you to provide the following information to our office:

- 1) Actual financial performance for the past year (copy of your last tax return or current income and expense records).
- 2) Current Balance Sheet and projected income/expense for next year.

Enclosed are forms you can use to complete items 1 and 2. If you already have a balance sheet and a current year's budget, copies of these and your last tax return or your actual records of income and expense for last year are acceptable. This information or other information in your case file may be provided to lenders to determine if they can refinance your Farm Loan Programs debt. PLEASE PROVIDE THIS INFORMATION TO OUR OFFICE BY:

(1<sup>st</sup> mailing) [insert date 30 days from letter].

(2<sup>nd</sup> mailing) [insert date 15 days from letter].

Failure to submit any required documents will result in acceleration of your account and the FSA will immediately move toward foreclosure. Graduation is mandated by law.

If you have any questions, concern, or need help putting this information together, let us know and we will help.

Sincerely,

--\*



**Notification of Payoff Amount**

Final payoffs shall be verified by 2 agency officials to lessen the possibility of an incorrect payoff  
\*--amount being provided. Both officials will sign and date the following letter. The following letter--\*  
will be forwarded to the borrower. Go to <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK  
“Find Current Forms Using Our Form Number Search”, in Form Number block, type, “4-FLP  
Exhibit 26”, and CLICK “Submit”.  
\*--

|   |       |
|---|-------|
| <b>4-FLP, Exhibit 26</b>  |       |
| (Use Agency Letterhead format with local return address.)               |       |
| <b>NOTIFICATION OF PAYOFF AMOUNT</b>                                    |       |
| Dear,   |       |
| The estimated payoff amount is: _____                                   |       |
| Borrower's Name: _____  |       |
| Borrower's Address: _____   |       |
| Case Number (last 4 digits): _____                                      |       |
| As of: _____  |       |
| Principal Balance: _____  |       |
| Interest Balance: _____   |       |
| Other (installment set-aside, deferral, equity receivable, etc.): _____ |       |
| Total (all loans): _____  |       |
| Daily Interest Accrual: _____   |       |
| Sincerely,  |       |
| Signature and Title of Verifier   | Date  |
| _____   | _____ |
| Signature and Title of Verifier   | Date  |
| _____   | _____ |

--\*



**Request for Continuation Statement Filing Fee**

The borrower must pay fees for executing, filing, or recording financing statements, continuation statements or other security instruments, unless State law requires FSA to pay these fees. This letter will be used to inform the borrower of any fees required. Go to <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK "Find Current Forms Using Our Form Number Search", in Form Number block, type, "4-FLP Exhibit 28", and CLICK "Submit".

\*--

**4-FLP, Exhibit 28**

(Use Agency Letterhead format with local return address.)

**REQUEST FOR CONTINUATION STATEMENT FILING FEE**

Dear:

With regard to the loans you received from FSA, a financing statement was filed or recorded in the office of \_\_\_\_\_.

Under the Uniform Commercial Code, FSA financing statement is effective for a period of five years from the date of filing or recording. From a review of our records, we note that the five year period is almost up in your case and it is necessary for us to file a continuation statement. The security agreement you signed provides that you will pay the cost for filing and recording the continuation statement.

The cost is \$ \_\_\_\_\_. Please send this amount to the above address in the form of a check or money order made payable to: \_\_\_\_\_ by \_\_\_\_\_ or FSA will charge this amount to your account and your loans will be in default.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

--\*





**SED Notification of Third-Party Purchaser**

If no response to Exhibit 32 has been received within 30 calendar days, the following will be forwarded to the purchaser by SED. If satisfaction is not made within 15 calendar days, \* \* \* SED will forward the account to OGC. \* \* \* Go to <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK "Find Current Forms Using Our Form Number Search", in Form Number block, type, "4-FLP Exhibit 33", and CLICK "Submit".

\*--

|  |
|--|
| <b>4-FLP, Exhibit 33</b>   |
| (Use Agency Letterhead format with local return address.)  |
| <b>STATE EXECUTIVE DIRECTOR<br/>NOTIFICATION OF THIRD-PARTY PURCHASER</b>  |
| Dear:  |
| Our records show that on _____ you were contacted by our local office and demand was made upon you in connection with the property you purchased from _____. This property remains under lien by the Farm Service Agency.  |
| Since you have not met this demand, we are preparing the case for submission to the United States Attorney. If you do not comply with the demand within 15 days, this office will request that Office of the General Counsel of the United States Department of Agriculture refer the matter to the Department of Justice. |
| Sincerely  |
| State Executive Director   |

--\*

