

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

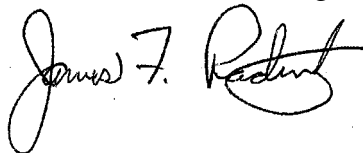
---

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

**Amendment 34**

---

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



---

**Amendment Transmittal**

**A Reasons for Amendment**

This handbook has been amended to:

- add references to 7-FLP
- add references to 7-FLP, Part 12
- change FLOO to NFAOC **or** NFAOC, DLD
- change TOP references from Exhibit 15 to 7-FLP, Part 4
- change references from RD Instruction 1956-B and Exhibit 16 to 7-FLP, Parts 8 and 12
- change references from Part 24 to 7-FLP
- change references from Part 11, Section 3 to 7-FLP, Part 11
- change references from RD Instruction 1956-B to 7-FLP, Part 12
- change references from paragraph 955 to 7-FLP, Part 12.

Subparagraph 1 B has been amended to remove authority for offsets, cross-servicing, AWG, and debt settlement, which has been moved to 7-FLP.

Subparagraph 2 A has been amended to remove references to 1-DIS and RD Instructions 1951-C and 1956-B in the notes.

Subparagraph 68 B has been amended to change administrative offset reference from RD Instruction 1951-C to 7-FLP, Part 3.

Subparagraphs 406 A and 407 B have been amended to change references from RD 1956-1 to FSA-2731.

Subparagraphs 406 B and 407 F have been amended to move partial cancellation to paragraph 409.

Paragraph 409 has been added to address requirements for administrator's exception for partial cancellation of debt after discharge.

## **Amendment Transmittal (Continued)**

### **A Reasons for Amendment (Continued)**

Subparagraph 421 G has been amended to add that deficiency judgments are serviced under 7-FLP, Part 11.

Part 11, Section 3 has been withdrawn because the material is now in 7-FLP, Part 11.

Subparagraph 499 F has been amended to add reference to 7-FLP, Parts 8 and 9.

Subparagraphs 531 A and 534 D have been amended to add references to Exhibit 48.

Subparagraph 533 B has been amended in an effort to correct weaknesses identified by OCR in preparing FSA-2580 and FSA-2581.

Subparagraph 708 B has been amended to change FLOO to NFAOC, PRD.

Part 24 has been withdrawn because the material is now in 7-FLP.

Exhibit 2 has been amended to remove definitions no longer referenced in this handbook.

Exhibit 15 has been withdrawn because the material is now in 7-FLP, Part 4.

Exhibit 16 has been withdrawn because the material is now in 7-FLP, Parts 7 and 8.

Exhibit 36 has been withdrawn because the material is now in 7-FLP, Part 9.

Exhibit 44 has been withdrawn because it is now FSA-2716.

Exhibit 45 has been withdrawn because it is now FSA-2717.

Exhibit 48 has been added to include a Notice of Acceleration of Farm Loan Programs Accounts That Are Unsecured.

**Amendment Transmittal (Continued)**

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
5, 6	1-1 through 1-6	1, pages 1-6
9, 10	2-9, 2-10	2, pages 1, 2
11	3-5 through 3-30	pages 7, 8
	3-33, 3-34	11, page 1
	3-109, 3-110	15, pages 1-20 (remove)
	6-41 through 6-60	16, pages 1-10 (remove)
	6-63, 6-64	page 11 (remove)
	8-1, 8-2	36, pages 1-24 (remove)
	8-3	page 25 (remove)
	9-1, 9-2	44, pages 1, 2 (remove)
	10-7, 10-8	45, pages 1, 2 (remove)
	11-1, 11-2	48, pages 1, 2 (add)
	11-5 through 11-50	80, page 1
	11-51	
	11-52 (remove)	
	11-53, 11-54 (remove)	
	12-1, 12-2	
	13-3 through 13-6	
	13-7	
	14-33, 14-34	
	14-37 through 14-70	
	14-73, 14-74	
	14-77	
	15-1 through 15-8	
	15-15, 15-16	
	16-1, 16-2	
	16-33 through 16-52	
	17-5, 17-6	
	18-7, 18-8	
	20-3 through 20-6	
	23-11, 23-12	
	24-1 through 24-6 (remove)	



**Table of Contents (Continued)**

**Page No.**

**Part 9            Servicing Shared Appreciation Agreements and NRBRA's (Continued)**

**Section 2        Servicing NRBRA's**

361	Events Triggering Recapture .....	9-41
362	FSA Bi-Annual Review .....	9-42
363	Determining Amount of Recapture Due .....	9-43
364	Notifying Borrower That Recapture Is Due.....	9-43
365	Processing Net Recovery Recapture .....	9-44
366-380	(Reserved)	

**Part 10          Unauthorized Assistance**

381	Unauthorized Assistance Policy .....	10-1
382	Initial Consideration.....	10-1
383	Causes of Unauthorized Assistance .....	10-2
384	Determining That Unauthorized Assistance Was Given .....	10-3
385	Determining the Value of Unauthorized Assistance.....	10-4
386	Notifying Borrower of Unauthorized Assistance .....	10-5
387	Recovering Unauthorized Assistance .....	10-6
388-400	(Reserved)	

**Part 11          Bankruptcies and Civil and Criminal Cases**

**Section 1        Bankruptcy**

401	FSA Actions When Borrower Files for Bankruptcy.....	11-1
402	Borrowers' Rights and Responsibilities About Loan Servicing .....	11-3
403	Filing Proof of Claim .....	11-5
404	Adjustment of Debts When Borrowers Are in Bankruptcy .....	11-6
405	FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction .....	11-7
406	Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed...	11-9
407	Liquidation During Bankruptcy .....	11-10
408	Acceptance of Conveyed Property From Trustee in Bankruptcy .....	11-13
409	Administrator's Exception Request for Partial Cancellation of Debt After Discharge .....	11-14
410-420	(Reserved)	

**Section 2        Civil and Criminal Cases**

421	Handling Civil and Criminal Cases .....	11-31
422-430	(Reserved)	

**Table of Contents (Continued)**

**Page No.**

**Part 11 Bankruptcies and Civil and Criminal Cases (Continued)**

**Section 3 (Withdrawn--Amend. 34)**

- 431-434 (Withdrawn--Amend. 34)
- 435-440 (Reserved)

**Part 12 Liquidation Overview**

- 441 Introduction to Liquidation ..... 12-1
- 442 Conditions for Liquidation..... 12-2
- 443 Protecting FSA Interests ..... 12-3
- 444 General Issues ..... 12-4
- 445-460 (Reserved)

**Part 13 Voluntary Liquidation**

- 461 General Requirements..... 13-1
- 462 Voluntary Liquidation of Real Property ..... 13-2
- 463 Closing the Sale of Real Property ..... 13-4
- 464 Voluntary Liquidation of Chattel..... 13-5
- 465 Closing the Sale of Chattel ..... 13-7
- 466-480 (Reserved)

**Part 14 Voluntary Conveyance of Security**

**Section 1 General Information**

- 481 Introduction..... 14-1
- 482-495 (Reserved)

**Section 2 Voluntary Conveyance of Real Property**

- 496 Before Receiving Conveyance Offers of Real Property ..... 14-31
- 497 Real Property Conveyance Application Requirements..... 14-32
- 498 Additional Requirements ..... 14-34
- 499 Processing the Borrower’s Conveyance Offer..... 14-36
- 500 Closing the Real Property Conveyance ..... 14-38
- 501-515 (Reserved)

**Section 3 Voluntary Conveyance of Chattel**

- 516 Before Receiving Conveyance Offers of Chattel..... 14-71
- 517 Chattel Conveyance Application Requirements ..... 14-72
- 518 Additional Requirements ..... 14-74
- 519 Processing the Borrower’s Conveyance Offer..... 14-75
- 520 Closing the Chattel Conveyance ..... 14-77
- 521-530 (Reserved)

**Table of Contents (Continued)**

**Page No.**

**Part 22      Selling and Leasing Inventory Real Property With Special Characteristics**

**Section 1      Inventory Property Containing Important Environmental Resources**

801	Overview .....	22-1
802	Leasing or Selling Inventory Property With Important Environmental Resources .....	22-2
803	Wetland Conservation Easements.....	22-3
804	Mandatory Conservation Easements.....	22-5
805	Discretionary Easements.....	22-6
806	Conservation Transfers .....	22-7
807-820	(Reserved)	

**Section 2      Inventory Property Located in Special Hazard Areas**

821	Selling or Leasing Inventory Property Located in Special Hazard Areas .....	22-31
822-835	(Reserved)	

**Section 3      Inventory Real Property Containing Environmental Risks**

836	Overview.....	22-61
837	Environmental Risk Management.....	22-62
838	Properties Containing Hazardous Waste .....	22-63
839	Properties Containing Underground Storage Tank Systems or Petroleum Products .....	22-64
840	Properties Containing Medical Waste, Lead-Based Paint, or Asbestos .....	22-65
841	Real Property That Is Unsafe.....	22-65
842-900	(Reserved)	

**Part 23      Servicing Borrowers with Both FSA and RD Loans**

901	Servicing Delinquent and Financially Distressed Accounts.....	23-1
902	Handling Voluntary Conveyances and Foreclosures Against Joint Security for Loans on Separate Security Instruments .....	23-6
903	Handling Voluntary Conveyances and Foreclosures Against Joint Security for Loans on the Same Security Instrument.....	23-8
904	Property ID Numbers .....	23-11
905	ADPS 3E Transactions .....	23-12
906-949	(Reserved)	

**Part 24      (Withdrawn--Amend. 34)**

950-955	(Withdrawn--Amend. 34)	
956	(Withdrawn--Amend. 30)	

## Table of Contents (Continued)

### Exhibits

1	Reports, Forms, Abbreviations, and Redelegations of Authority
2	Definitions of Terms Used in This Handbook
3	(Reserved)
4	State Supplements
5-9	(Reserved)
10	Notification of the Availability of the Disaster Set-Aside Program
11	Account Description Flag and Code Reference
12	(Reserved)
13	Third Party Pledge of Security Notification Letter
14	Youth Loan Notification Letter
15, 16	(Withdrawn--Amend. 34)
17	Instructions for Using eDALR\$
18-24	(Reserved)
25	Shared Appreciation Agreement Reminder
26	Calculation of Shared Appreciation Recapture
27-29	(Reserved)
30	Initial Letter to Borrowers Who Received Unauthorized Assistance
31	Letter to Borrowers Who Received Unauthorized Assistance – Final Determination
32, 33	(Reserved)
34	Notice to Borrower’s Attorney Regarding Loan Servicing Options
35	(Reserved)
36	(Withdrawn--Amend. 34)
37	Worksheet for Accepting a Voluntary Conveyance of Farm Loan Programs Security Property Into Inventory
38	10-Day Notice of Non-Program Loan Delinquency
39	30-Day Reminder of Non-Program Loan Delinquency
40	Notice of Acceleration of Your Debt (Non-Program) to the Farm Service Agency (FSA) and Demand for Payment of That Debt
41	Notice of Acceleration of Your Farm Service Agency (FSA) Account (Non-Program)
42, 43	(Reserved)
44, 45	(Withdrawn--Amend. 34)
46, 47	(Reserved)



## Table of Contents (Continued)

### Exhibits (Continued)

- 48 Notice of Acceleration of Farm Loan Programs Accounts That Are Unsecured
- 49 Notice of Acceleration of Farm Loan Programs Accounts Secured by Real Estate and/or Chattels in Cases Not Involving Bankruptcy
- 50 Notice of Intent to Foreclose on Your Property Serving as Security for the United States of America and Acceleration of Your Loan Accounts
- 51 Notice of Acceleration of Your Debt to the Farm Service Agency Based on Confirmed Bankruptcy Plan With Discharge and Demand for Payment of That Debt
- 52 Notice of Acceleration for FLP Accounts Held by American Indian Borrowers and Secured by Real Estate Located Within a Recognized Reservation and Borrower Rights
- 53 Notification of Options Available to the Tribe
- 54 Information on American Indian Borrower Rights Under the Consolidated Farm and Rural Development Act
- 55 Notification to a Tribe of an American Indian Borrower's Request to Have a Loan Assigned to the Tribe (With Example Information)
- 56 Notification to an American Indian Borrower of Acceptance of an Assignment Request
- 57 Notification to an American Indian Borrower of Denial of an Assignment Request
- 58, 59 (Reserved)
- 60 Worksheet for Determining Farm Loan Programs Maximum Bid on Real Estate Property
- 61-64 (Reserved)
- 65 Notification of Personal Property
- 66 Notification of Transmittal to the Internal Revenue Service (IRS)
- 67-69 (Reserved)
- 70 Notice of Sale
- 71 Notification to Tribe of Availability of Farm Property for Purchase
- 72, 73 (Reserved)
- 74 Conservation Easement for Wetlands
- 75 Conservation Easement for Floodplains
- 76, 77 (Reserved)
- 78 Notice of Special Flood, Mudslide, or Earthquake Hazard Area
- 79 Guide for Calculating the Proportionate Share of Market Value/Proceeds From Joint Mortgages
- 80 ADPS 3E Transaction Guide



## 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 Part 766 for servicing borrowers who are financially distressed or delinquent
- 7 CFR Part 767 for managing, leasing, and selling inventory property
- 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.
*--debt collection and resolution	7-FLP.--*
direct loan making	3-FLP.
direct loan regular or routine servicing	4-FLP.
disaster designations	1-DIS.
employee development and training	6-PM.
environmental requirements	1-EQ.
general and administrative regulations governing FLP, and implementing NAD final determinations	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, Land Contract Guarantee 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.

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

\* \* \*

B Helpful Links

The Helpful Links web site at

\*--<https://amistad.sc.egov.usda.gov/flp/InformationalLinks?Action=Links&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 according to 1-FLP, subparagraph 2 C.

\* \* \*

## 3 FLP Forms

### A Form References

Except as provided in this paragraph, this handbook references forms according to the forms numbering system that became 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://intranet.fsa.usda.gov/dam/ffasforms/forms.html](http://intranet.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-Modified National Forms**

State and County Offices shall use national forms unless their use is prohibited by State law. In such cases, the State Office may modify the national form. Follow guidance in 1-FLP, subparagraph 3 H for obtaining clearance for State-modified national forms.

**Note:** State-modified national forms based on national forms will be made available on the FFAS Employee Forms/Publications Online Website at

\*--<http://intranet.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.

<b>IF the form pertains to...</b>	<b>THEN the form number shall be...</b>
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.
*--7-FLP	FSA-2700-1 ST, FSA-2700-2 ST, FSA-2700-3 ST, etc.--*

**Notes:** “ST” represents the appropriate State acronym.

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

State-created forms will be made available on the FFAS Employee Forms/Publications Online Website at <http://intranet.fsa.usda.gov/dam/ffasforms/forms.html>.

**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 State Extension Service, on-line services, attorney, etc.--\*

## 4 Agency Exception Authority

### A General

**\*--[7 CFR 766.401, 767.251] 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.

A decision as to whether an exception request will be submitted will be at FSA's discretion and is not appealable.

A request for an exception to program regulations should not be pursued under normal servicing conditions. FSA considers requests submitted under extraordinary circumstances only.

### B Submitting Exception Requests

SED must submit an exception request by e-mail to DAFLP at **RA.dcwashing2.FSA-AdmException**. The e-mail subject should read "Administrator's Exception to (cite 5-FLP subparagraph) – (Borrower's Name and State)". An **encrypted** attachment 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



## 46 DSA Approval (Continued)

**E Installments To Be Set-Aside**

**[7 CFR 766.58] (a) The Agency will set-aside the first installment due immediately after the disaster occurred.**

**(b) If the borrower has already paid the installment due immediately after the disaster occurred, the Agency will set aside the next annual installment.**

**F Interest Accrual**

**[7 CFR 766.59(a)] (1) Interest will accrue on any principal portion of the set-aside installment at the same rate charged on the balance of the loan.**

**(2) If the borrower's set-aside installment is for a loan with a limited resource rate and the Agency modifies that limited resource rate, the interest rate on the set-aside portion will be modified concurrently.**

**[7 CFR 766.59(b)] The amount set-aside, including interest accrued on the principal portion of the set-aside, is due on or before the final due date of the loan.**

**G Recording DSA**

The authorized agency official will use FSA-2501 as the source document to complete the DSA SI Other workflow to create and submit the 5S – Record Disaster Set-Aside DLS \*--transaction. NFAOC borrower account status reports and inquiry screens will reflect the--\* amounts set-aside for each loan. An ISA identifier will be displayed on RC 540 for loans with DSA.

**H Security Requirements**

**[7 CFR 766.56] If the borrower is not current on all FLP loans prior to the borrower executing the appropriate DSA Agency documents, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all their assets except those listed under section 766.112(b) (paragraph 211).**

## 47 Adverse Determinations

**A Notifying Borrowers of Adverse Determinations**

DSA applications that do not meet all DSA requirements will be rejected and the borrower will be notified of the decision and provided appeal rights according to 1-APP.

## 48 Canceling and Reversing DSA

### A Canceling DSA

**[7 CFR 766.60] The Agency will cancel a DSA if:**

**[7 CFR 766.60(a)] The Agency takes any primary loan servicing action on the loan;**

If FSA later restructures the borrower's loan, the authorized agency official must cancel DSA with a 5T – Cancel Disaster Set-Aside transaction when processing the restructuring through DLS Special Servicing.

**[7 CFR 766.60(b)] The borrower pays the current market value buyout in accordance with § 766.113; or**

**[7 CFR 766.60(c)] The borrower pays the set-aside installment.**

\*--If the borrower pays the set-aside installment, the office shall contact NFAOC, DLD to--\* process the DSA cancellation with a 5T – Cancel Disaster Set-Aside transaction in DLS.

### B Reversing DSA

**[7 CFR 766.61] If the Agency determines that the borrower received an unauthorized DSA, the Agency will reverse the DSA after all appeals are concluded.**

If FSA determines that the borrower received unauthorized DSA assistance, the borrower will be notified and meetings scheduled according to Part 10.

If FSA still believes DSA was unauthorized after the meetings and once any borrower appeals have been exhausted in FSA's favor, FSA will reverse the set-aside by reinstating the borrower's original payment terms as if FSA had never granted DSA to the borrower. In reversing DSA, the authorized agency official must:

- \*--notify NFAOC, DLD in writing to reverse DSA--\*
- attach this notification to FSA-2501, which should remain stapled to the promissory note or assumption agreement.

If a borrower becomes financially distressed or delinquent after FSA reverses DSA, the authorized agency official services the borrower's account according to Parts 3 and 4.

## 68 Other Loan Servicing Notification Requirements

### A Notifying All Parties on a Note of Loan Servicing

For Primary Loan Servicing purposes, all parties who signed the promissory note are considered borrowers and are liable for all the debt.

When a borrower subject to loan servicing notification is:

- an entity comprised of 2 or more individuals, the authorized agency official will provide a loan servicing notification package to the entity and each party who signed the promissory note or pledged security for the loan
- a married couple at the same address, the authorized agency official will provide them 1 loan servicing notification package that is addressed to both parties
- a married or divorced couple at different addresses, the authorized agency official will provide a loan servicing notification package to each person at their own address.

**Note:** A divorced spouse who has left an operation may seek a release of liability. See paragraph 84 for more information on releasing divorced spouses from liability.

All required subsequent notifications are sent in the same manner.

Third parties who pledged property as security or borrowers with YL's will receive Exhibit 13 or 14, as appropriate, with the notification to explain why they are being notified and their servicing options.

**Note:** Exhibits 13 and 14 are both available electronically on the FFAS Employee Forms/Publications Online Website located at [\\*--http://intranet.fsa.usda.gov/dam/ffasforms/forms.html](http://intranet.fsa.usda.gov/dam/ffasforms/forms.html). Select Find Current--\* Forms Using Our Form Number Search and enter "5-FLP Exhibit 13" or "5-FLP Exhibit 14" in the "Form Number" search field. CLICK "Submit".

### B Internal Administrative Offset Notification

\*--The authorized agency official will send an offset notification according to 7-FLP, Part 3.

### C TOP Referral

Delinquent loans will be referred to TOP according to 7-FLP, Part 4.--\*

**69-80 (Reserved)**



**81 Required Information (Continued)****I Verification of Debt and Collateral**

**[7 CFR 766.102(a)(8)] Verification of all debts and collateral.**

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

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

**[7 CFR 766.102(c)] To be considered for debt settlement, the borrower must provide the appropriate Agency form, and any additional information required under \*--subpart B of 7 CFR Part 1956. (7-FLP, Part 12)**

To apply for debt settlement, a borrower must complete and submit RD 1956-1 and may do so at any time. The loan account does not need to be delinquent and the borrower does not need to apply for primary loan serving before applying for debt settlement. See 7-FLP, Parts 8 and 12.--\*

**B Conservation Contract**

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

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

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

See Part 5 for more information on conservation contracts.

**83 Borrower Response Timeframes****A Borrower Response Timeframes**

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

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

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

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

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

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

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

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

## 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 Treasury as set forth in 7-FLP.\*

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.

\* \* \*

If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

Judgment debt will be serviced according to 7-FLP, Part 11.\*

**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.



**231 Additional Servicing Information Applicable to Adverse Decisions****A Reconsideration**

Reconsideration is an opportunity for a borrower to request a meeting with FLM, SFLO, or FLO about an adverse decision.

The borrower has 30 calendar days from the date of the notice of adverse decision to request reconsideration. The borrower may present additional information at this meeting or explain why they believe the adverse decision is in error.

The borrower will get only 1 reconsideration for each adverse decision.

The authorized agency official will send the borrower a letter stating the results of the reconsideration meeting. If the decision is favorable to the borrower, the authorized agency official will resume processing of the borrower's request for primary loan servicing. If FSA's decision has not changed, the borrower will be provided with new mediation and appeal rights.

**B Appeals**

The borrower has 30 calendar days from the receipt of the notice of adverse decision to request an appeal.

The borrower may request an appeal of an appraisal after receiving an adverse decision from FSA. The borrower may not appeal if the appraised value was previously negotiated according to subparagraph 230 B.

FSA will handle a borrower's appeal request according to 1-APP.

**C Buyout at Current Market Value**

FSA will offer a buyout at current market value to eligible borrowers who have not developed a feasible plan through primary loan servicing according to Part 8.

**D Debt Settlement**

Borrowers may apply for debt settlement at any time during the primary and preservation loan servicing process.

If SED denies the borrower's debt settlement request, the borrower can appeal the adverse \*--decision. See 7-FLP, Part 12 for information on debt settlement.--\*

**232-245 (Reserved)**



**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.

\*--1M and 5W – Record Loan Deferral transactions will be processed in DLS Special Servicing to record the deferred loans as well as record the "DEF" flag on the account. These transactions will be created and processed in the correct sequence by DLS Special Servicing.--\*

248 Closing Deferred Loans (Continued)

**C Ongoing Servicing of Deferrals**

\*--Review the NFAOC 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) will be  
\*--converted to a "DEF3" flag by NFAOC, DLD. This flag is not required to be removed--\*  
and is used to indicate which accounts have previously been serviced with deferral servicing  
actions. If all deferrals on an account must be canceled before their expiration, the "DEF"  
flag must be removed from the account by completing FSA-2562 and processing a  
5H transaction.

**Part 8 Current Market Value Buyout****321 Buyout at Current Market Value****A Introduction**

If a feasible plan cannot be developed through primary loan servicing, FSA will offer the borrower current market value buyout if they are determined eligible according to subparagraph B.

Current market value allows the borrower to pay FSA the current market value of the security less any prior liens. FSA will release all of the borrower's debt and security instruments when current market value is paid in full within the required timeframes. If the total FLP debt is less than current market value, FSA will accept payment in full at any time.

**B Borrower Eligibility**

**[7 CFR 766.113 (a)] A delinquent borrower may buy out the borrower's Agency loans at the current market value of the loan security, including security not in the borrower's possession, and all non-essential assets if:**

- (1) The borrower has not previously received debt forgiveness on any other FLP direct loan;**
- (2) The borrower has acted in good faith;**
- (3) The borrower does not have non-essential assets for which the net recovery value is sufficient to pay the account current;**
- (4) The borrower is unable to develop a feasible plan through primary loan servicing programs or a Conservation Contract, if requested;**
- (5) The present value of the restructured loans is less than the net recovery value of Agency security;**
- (6) The borrower pays the amount required in a lump sum without guaranteed or direct credit from the Agency; and**
- (7) The amount of debt forgiveness does not exceed \$300,000.**

**321 Buyout at Current Market Value (Continued)**

**B Borrower Eligibility (Continued)**

Debt reduction from FSA-2535's is not included in the \$300,000 limit described in this subparagraph.

If eDALR\$ shows that FSA would write off more than \$300,000 of the borrower's debt in restructuring the debt or accepting the current market value, the borrower is not eligible for primary loan servicing or current market value buyout. The borrower may be considered for \*--debt settlement according to 7-FLP, Part 12.--\*

**C Approval of Buyout**

SED must approve all current market value buyouts unless the account is paid in full.

**D Recapture Agreements**

FSA borrowers who received approval of buyout at NRV before July 3, 1996, entered into NRBRA with FSA. FSA services NRBRA according to Part 9, Section 2.

Borrowers who received approval to buyout their loans after July 3, 1996, must pay current market value. FSA does not require these borrowers to enter into NRBRA.

**322 Processing a Buyout at Current Market Value****A Notifying Borrower of Buyout**

The authorized agency official will notify the borrower of the opportunity to buyout the FSA loans at current market value by sending the borrower a copy of the signed eDALR\$ Report, along with FSA-2521 and FSA-2522 or FSA-2523 and FSA-2524 showing the buyout amount by certified mail.

**B Timeframe for Borrower to Pay Buyout Amount**

**[7 CFR 766.113(b)] After the Agency offers current market value buyout of the loan, the borrower has 90 days from the date of Agency notification to pay that amount.**

If the borrower exercises the right to an independent appraisal, negotiation of appraisal, reconsideration, mediation, or appeal, the 90-calendar-day time limit will start on the day the borrower receives the final Agency and/or NAD decision.

**C Processing Buyout Payment**

If the borrower accepts FSA's buyout offer, the borrower must pay the entire buyout amount according to 4-FLP, subparagraph 65 F. The buyout amount will be established by processing a 3Q – Market Value Buyout transaction in DLS Special Servicing after the payment has been processed. The payment will be submitted as “other collection” according to 3-FI. The borrower's security instruments will be released according to 4-FLP, subparagraph 65 F. The borrower's original promissory notes will be marked “satisfied at current market value” and returned to the borrower.

**D Borrower Nonresponse or Inability to Pay Current Market Value**

If the borrower does not accept FSA's buyout offer and FSA has a lien on the home of the borrower or any person that pledged their home as collateral, homestead protection will continue to be processed according to Part 7. If the borrower does not elect or is not eligible for homestead protection or does not pay the FLP account current, FSA will, after conclusion of all appeals, accelerate the borrower's account according to Part 15.

\*--The borrower can also still apply for debt settlement according to 7-FLP, Part 12.--\*

**323-340 (Reserved)**





**Part 9 Servicing Shared Appreciation Agreements and NRBRA's**

**Section 1 Servicing Shared Appreciation Agreements**

**341 Monitoring Shared Appreciation Agreements**

**\*--A NFAOC Reports**

NFAOC sends a monthly report to the County Office listing:--\*

- shared appreciation agreements that will soon be maturing
- past due amounts owed by borrowers on shared appreciation agreements that have been triggered or have matured.

**B Borrower Reminder of Shared Appreciation Agreement**

The authorized agency official will send Exhibit 25 to all borrowers who executed a shared appreciation agreement as a reminder of shared appreciation agreement requirements. This letter will be sent in the fourth quarter of every FY during the term of the shared appreciation agreement, starting 1 year after the shared appreciation agreement is signed.

**C Consideration of Shared Appreciation Amounts**

FSA considers the amount of shared appreciation as a contingent liability of the borrower until it is determined whether there is any shared appreciation due and payable according to paragraph 342.

FSA includes shared appreciation amounts that are due and payable or amortized as part of the borrower's total FSA debt.

**342 Triggering Shared Appreciation Agreements**

**A When Shared Appreciation Agreement Is Due**

**[7 CFR 766.201(b)] The borrower must repay the calculated amount of shared appreciation after a term of 5 years from the date of the writedown, or earlier if:**

Shared appreciation agreements signed before August 18, 2000, continue to mature after 10 years.

**[7 CFR 766.201(b)] (1) The borrower sells or conveys all or a portion of the Agency's real estate security, unless real estate is conveyed upon the death of a borrower to a spouse who will continue farming;**

**[7 CFR 766.201(b)] (2) The borrower repays or satisfies all FLP loans;**

**[7 CFR 766.201(b)] (3) The borrower ceases farming; or**

**[7 CFR 766.201(b)] (4) The Agency accelerates the borrower's loans.**

## 387 Recovering Unauthorized Assistance (Continued)

**C Unauthorized Assistance Remittance in a Lump Sum**

**[7 CFR 766.253(a)(1)] The borrower may repay the amount of the unauthorized assistance in a lump sum within 90 days of Agency notice.**

The authorized agency official must make every reasonable attempt to collect the amount of the unauthorized assistance calculated in paragraph 385 from the borrower in a lump sum. If the borrower agrees to remit the unauthorized assistance in a lump sum, the borrower must remit the unauthorized assistance within 90 calendar days of receipt of Exhibit 31.

FSA can make the borrower a new loan or a subordination to refinance the unauthorized loan as long as the new action meets all requirements for the type of new loan or subordination.

**D Other Unauthorized Assistance Remittance Options**

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

**(3) If the borrower is unable to repay all or part of the unauthorized amount, the loan will be converted to a Non-program loan under the following conditions:**

**(i) The borrower did not provide false information;**

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

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

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

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

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

**(A) The remaining term of the FLP loan;**

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

**(C) The life of the security for chattel loans.**

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

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

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

Borrowers who can pay but refuse are in nonmonetary default.

**F When FSA Pursues Legal Action to Collect Unauthorized Assistance**

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

- the borrower fails to attend the scheduled meeting
- the borrower fails to respond to FSA within 30 calendar days of the date of receipt of Exhibit 31
- the borrower has not completed the corrective action within 90 calendar days of the date of receipt of Exhibit 31.

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

**G Processing Any Account Adjustments**

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

**388-400 (Reserved)**

## Part 11 Bankruptcies and Civil and Criminal Cases \* \* \*

## Section 1 Bankruptcy

## 401 FSA Actions When Borrower Files for Bankruptcy

## A Suspending Loan Servicing

If a borrower files bankruptcy, the authorized agency official will suspend all pending special servicing and collection actions, but will continue to monitor the account and conduct regular servicing to protect the interests of the Government.

## B Flagging the Account

Upon notification that the borrower has filed bankruptcy, the authorized agency official will flag the account as “BAP” by using FSA-2562 and processing a 5G transaction. The “BAP” flag will remain on the account until 1 of the following occurs:

- bankruptcy is dismissed
- there is a confirmed plan and the case is closed
- the account is settled.

**Note:** The “51-S” flag must be removed with a 5H transaction before a “BAP” flag can be established (Exhibit 11).

## C Notifying the Borrower’s Attorney of Loan Servicing Options if Borrower Was Not Previously Notified

**[7 CFR 766.301] If a borrower files for bankruptcy, the Agency will provide written notification to the borrower’s attorney with a copy to the borrower as follows:**

**(a) The Agency will provide notice of all loan servicing options available under Subpart C (Part 3) of this part, if the borrower has not been previously notified of these options.**

Within 15 calendar days of receiving a notice of bankruptcy, the authorized agency official will send all borrowers and the borrowers’ attorney Exhibit 34, the appropriate notice, and the response form according to subparagraph 67 A. If the borrower does **not** have an attorney, the borrower only will receive the FSA forms.

**401 FSA Actions When Borrower Files for Bankruptcy (Continued)****D Notifying the Borrower's Attorney of Servicing Options if the Borrower Was Previously Notified**

**[7 CFR 766.301(b)] If the borrower received notice of all loan servicing options available under Subpart C (Part 3) of this part prior to the time of bankruptcy filing but all loan servicing was not completed, the Agency will provide notice of any remaining loan servicing options available.**

If FSA notified the borrower of primary loan servicing before the borrower filed for bankruptcy and some servicing options are still available, the authorized agency official will send Exhibit 34 and the appropriate servicing forms along with any required application forms to all borrowers and the borrowers' attorney (if the borrowers have no attorney, then all notifications and timeframes will apply to the borrowers only) explaining what options remain. Servicing and servicing timeframes suspended on the date the borrower files for bankruptcy resume on the date the attorney receives Exhibit 34. If no servicing options remain, send Exhibit 34 to inform the borrower and attorney that no primary loan servicing options remain.

\*--If the borrower or borrower's attorney does not request any remaining servicing options, or no servicing options remain, the authorized agency official will not take any further action--\* to liquidate the account until the stay is lifted and they are notified by the State Office.

**E Referring a Bankruptcy to the State Office**

The authorized agency official will inform the State Office of any developments in the borrower's bankruptcy case, but will take no action against the security unless directed by SED.

SED should issue a State supplement describing what information is to be forwarded to the State Office in the event of a borrower filing bankruptcy. SED may issue additional State supplements as required to comply with State laws with regional OGC guidance/advice.

**403 Filing Proof of Claim****A Role of the State Office**

In a bankruptcy case, the State Office will determine whether FSA has security for the debt and whether the debtor has other assets from which FSA could make a substantial collection. In making this determination, the State Office should request additional information as needed from the authorized agency official.

**B Actions for Borrower Under Chapter 7 With No Loan Security or Other Assets**

Unless otherwise advised by OGC, if FSA cannot make a substantial recovery from the security and other assets, the State Office will return the file and related material to the authorized agency official. The State Office will provide the authorized agency official with a memorandum indicating SED's determination and advising that FSA will not file a proof of claim unless the authorized agency official learns that the debtor has assets not previously identified.

The deadline for filing claims in a bankruptcy proceeding is 90 calendar days from the first date set for the meeting of creditors, except governmental units, such as FSA, shall be timely filed if the Proof of Claim is filed 180 calendar days after the date of the order of relief. If FSA learns before the deadline that the borrower has previously unreported assets, the authorized agency official will resubmit the case to the State Office.

**C Actions for Borrower Under Chapters 7, 11, 12, or 13 With Potential for Substantial Recovery**

When working with a borrower under Chapter 7, 11, 12, or 13 and there is potential for substantial recovery, the State Office will prepare Proof of Claim (B10) found at ~~\*--[http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK\\_Forms\\_Current/B\\_010.pdf](http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK_Forms_Current/B_010.pdf)--\*~~ or other form approved by OGC to submit a proof of claim. The proof of claim covers all of the borrower's indebtedness to FSA and any SAA's.

The identification of FSA security and Proof of Claim will be submitted to OGC and the U.S. Attorney. Central Intake Facilities will be used if required.

If the proof of claim is submitted to OGC, SED will identify in a memo the security that FSA took for each FLP loan.

If SED knows that the U.S. Attorney has obtained a judgment against the borrower, SED will notify OGC even though the debt has been charged off.

SED, on OGC's advice, will instruct the authorized agency official about actions to take with respect to meetings of creditors.

SED will take no other actions without OGC's or DOJ's approval.

**403 Filing Proof of Claim (Continued)****D Chapter 13 Bankruptcies When FSA Has a Lien on the Debtor's Principal Residence**

Because of Federal bankruptcy rule notification requirements in Chapter 13 bankruptcies where FSA has a lien on the debtor's principal residence and the case is still under court jurisdiction, OGC will be specifically notified when 1 of the following occurs:

- FSA plans on making any changes in the planned payments or interest rate on the account
- FSA plans on charging any recoverable cost items to the account
- FSA receives a notice from the trustee or debtor that payment has been made in full.

The Federal bankruptcy rules require FSA to serve upon the debtor, debtor's counsel, and trustee a notice of any payment changes, including any changes resulting from interest rate or escrow account adjustments, at least 21 calendar days before the new amount is due.

FSA must also serve upon the debtor, debtor's counsel, and trustee a notice of any fees, expenses, or charges incurred after the bankruptcy petition was filed that are recoverable against the borrower, within 180 calendar days of the date that the fees, expenses, or charges were incurred.

If FSA receives a notice that payment has been made in full, the Government must, within 21 calendar days, file and serve the debtor, debtor's counsel, and trustee a notice for either of the following:

- agreeing that full payment has been made
- itemizing any required cure or post-petition amounts that are unpaid.

Notices must be cleared through OGC unless other arrangements have been made.

**404 Adjustment of Debts When Borrowers Are in Bankruptcy****A Referral and Recommendation to SED**

The authorized agency official will send to SED any plans submitted by debtors. SED will refer the plans to the U.S. Attorney through OGC.

SED will provide OGC with a recommendation to accept or reject any debtor's plan that calls for adjustment of FSA debt.

**B FSA Actions After Court Confirms Plan**

Upon receiving notification of the bankruptcy reorganization plan confirmation, SED will \*--notify NFAOC, DLD of the terms and conditions of the plan including any adjustment of--\* the FSA debt, using FSA-2574. SED should attach to FSA-2574 a copy of the reorganization plan, signed order of confirmation, and discharge order if applicable.



**404 Adjustment of Debts When Borrowers Are in Bankruptcy (Continued)****B FSA Actions After Court Confirms Plan (Continued)**

\*--NFAOC, DLD will establish the borrower's account according to the reorganization plan--\* and flag the account "SAA" (Exhibit 11) when it is applicable. The "SAA" flag will remain on the account until either the bankruptcy plan is completed and the case is closed, or the bankruptcy is dismissed.

The authorized agency official will file a copy of the plan, order of confirmation, and the original promissory notes according to 25-AS.

The authorized agency official must indicate that the borrower is paying under a reorganization plan in the borrower's case file and in DLS Special Servicing.

**405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction****A Borrower Becomes 90 Calendar Days Past Due on a Chapter 11, 12, or 13 Reorganization Plan**

When a borrower becomes 90 calendar days past due on a Chapter 11, 12, or 13 reorganization plan while still under Bankruptcy Court jurisdiction, the authorized agency official will immediately notify the State Office of the facts of the case. The State Office will contact OGC for advice as required.

The authorized agency official will notify the borrower and the borrower's attorney of remaining primary and preservation servicing options not exhausted before filing for bankruptcy or during bankruptcy proceedings using Exhibit 34 and FSA-2510 and FSA-2511 unless either:

- OGC advises that notification is inconsistent with the confirmed reorganization plan and the Bankruptcy Code, 11 U.S.C. §101 et seq.
- FSA has referred the borrower's loan to DOJ
- FSA has previously accelerated the loan.

If all servicing options were exhausted before the bankruptcy filing or during bankruptcy, Exhibit 34 only will be prepared stating that no further servicing options remain.

A borrower operating under a confirmed plan applying and qualifying for loan servicing under Part 3 must comply with the Bankruptcy Code requirements regarding plan modification.

The authorized agency official may request updated information to decide on a previous request for loan servicing. The authorized agency official will send a copy of this notice to the Bankruptcy Trustee unless otherwise advised by OGC.

**405 FSA Actions When Borrower Defaults on Reorganization Plan or Court Dismisses Bankruptcy While Under Court Jurisdiction (Continued)****B Servicing When the Bankruptcy Is Dismissed Without a Confirmed Plan and the Borrower Is in Default**

\*--If the Court dismisses a bankruptcy case and the borrower is in default on FLP loans, the--\* authorized agency official will notify the borrower of any remaining servicing options unless:

- OGC advises that notification is inconsistent with the Bankruptcy Code, 11 U.S.C. §101 et seq.
- FSA has referred the borrower's loan to DOJ
- FSA has previously accelerated the loan.

If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15.

If FSA previously accelerated the account, all of the borrower's servicing rights are exhausted and FSA liquidates the account.

**C Servicing a Borrower When a Bankruptcy Is Dismissed After a Confirmed Plan**

If the borrower makes at least 1 full payment to FSA on the confirmed plan before the bankruptcy is dismissed, the authorized agency official will send the borrower a new servicing notification package.

If the borrower does not make at least 1 full payment to FSA, the authorized agency official will send notification of the remaining servicing options based on the previous notification. If the borrower is in default and all loan servicing options are exhausted, FSA will proceed to liquidate the security according to Part 15.

**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 7-FLP, Part 12.

The State Office will forward the approved FSA-2731, with a copy of the discharge, to NFAOC, DLD for processing the debt cancellation.

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

**B Servicing Remaining Liable Parties--\***

If some, but not all, of the liable parties were discharged of the debt, the authorized agency official will:

- consult with the regional OGC to determine what, if any, collection action can be taken against nondischarged individuals, entities, etc., and any remaining security
- take all allowable collection actions in a timely manner, including collection of unsecured \*--account balances through offset and referral to Treasury as set forth in 7-FLP
- determine whether a partial cancellation of the debt, such as canceling the discharged debt amount that is still owed by the nondischarged individuals, would be appropriate and/or financially beneficial to the Government

**Note:** See paragraph 409.--\*

- monitor these accounts closely to ensure timely resolution.

\* \* \*

**406 Servicing Chapter 11, 12, and 13 Cases After the Bankruptcy Case Is Closed (Continued)****C 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.

**D 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.

**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 case file.

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

Collection of unsecured account balances will continue for all remaining liable borrowers  
\*--through offset and referral to Treasury as set forth in 7-FLP.--\*

In community property States:

- the authorized agency official will consult with the regional OGC, as needed, before pursuing separate collection action against a nondischarged borrower who is the spouse of a discharged borrower
- when collection action cannot be taken against a nondischarged spouse and the nondischarged spouse is the only remaining liable obligor for the unsecured loan balance,  
\*--only the individual or entity receiving the discharge will be listed on FSA-2731.--\*

\* \* \*

**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 using FSA-2731 according to 7-FLP, Part 12.--\*

**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.

## 407 Liquidation During Bankruptcy (Continued)

### F Discharged Borrower Keeps FLP Loans Current

Borrowers who have received a bankruptcy discharge may continue to pay FLP loans that are secured by real estate. In these cases, OGC may advise that foreclosing against the security is **not** possible unless the secured loans become delinquent.

The authorized agency official will:

- ensure that the account remains flagged “BAP” according to subparagraph 401 B
- monitor the TOP screens to ensure that all unsecured discharged loans are removed from \*--TOP consideration according to 7-FLP, Part 4--\*
- continue monitoring the account until the secured loans are paid in full or become delinquent.

If the secured loans become delinquent, consult with the regional OGC, as needed, to determine whether any additional notices must be sent before liquidating the security.

In some cases, it may be appropriate and/or in the Government’s best interest to process \*--partial cancellation of debt. See paragraph 409.--\*

\* \* \*

Partial cancellation in these situations may assist FSA to:

- comply with the bankruptcy discharge order by ensuring that no erroneous offset collection is taken on the discharged unsecured loans that are still showing as delinquent in FSA’s financial system
- reduce the amount of uncollectible debt FSA must continue to monitor and include in reports.

**408 Acceptance of Conveyed Property From Trustee in Bankruptcy****A Conditions for Acceptance of Conveyed Property**

FSA may accept conveyance of property by the Trustee in a bankruptcy case if:

- the automatic stay has been lifted
- conveyance will permit a substantial recovery of FSA debt
- FSA will acquire title free of all liens and encumbrances except for FSA's liens
- conveyance is in FSA's interest.

SED is authorized to accept a conveyance of property to the Government.

**B Fees Connected With the Conveyance**

FSA may voucher and charge to the borrower's account any necessary and proper fees approved by the Bankruptcy Court in connection with the conveyance. Before paying a fee to a trustee for a Trustee's Deed in excess of \$1,000 for FLP loans, the authorized agency official must obtain approval from the Administrator. SED will process payment of fees as outlined in 4-FLP, Part 6.

**C Deeds**

Conveyance of the borrower's property to FSA may be by a Trustee's Deed instead of FSA-2569 if, upon advice of OGC, FSA determines that such a deed is necessary to obtain clear title.

**D Crediting the Borrower's Account**

FSA will credit the borrower's account after accepting a conveyance of property. If the market value of the acquired property equals or exceeds the debt, the account is satisfied. If the debt exceeds the market value of the acquired property, FSA will credit the account by the market value of the security.

**E Property Acquisition Reporting Requirements**

FSA will report property acquisitions according to Part 14.

**\*--409 Administrator's Exception Request for Partial Cancellation of Debt After Discharge**

**A Requesting Administrator's Exception**

If partial cancellation is appropriate, submit a request for an exception to 7 CFR 1956.57(k) to the National Office. For debt settlement exception authority and information on submitting an exception request, see 7-FLP, Part 12.

**B Processing Partial Cancellation for Nondischarged Individuals**

Partial cancellation for nondischarged individuals (subparagraph 406 A) requires a complete debt settlement application from each. The partial debt settlement application will be processed according to 7-FLP, Part 12.

In cases where partial cancellation is completed, the cancellation of debt for the nondischarged individuals will be debt forgiveness for FLP purposes, and IRS Form 1099-C will be issued for the amount of the canceled debt.

**C Processing Partial Cancellation for Discharged Individuals**

For discharged individuals who continue to make payments (subparagraph 407 F), the partial cancellation will be completed using FSA-2731 according to 7-FLP, Part 12.--\*

**410-420 (Reserved)**



## Section 2 Civil and Criminal Cases

### 421 Handling Civil and Criminal Cases

#### A Criteria for Pursuing Civil Cases

FSA will pursue a civil court action against a borrower or third party when:

- the borrower fails to make required payments or to cure nonmonetary default
- all administrative authorities to protect FSA's interests have been exhausted.

#### B Pursuing Criminal Cases

If it appears that an applicant, borrower, or third party committed a criminal violation in any manner, SED will refer the case to the appropriate authorities for investigation and possible prosecution.

If it appears that an applicant, borrower, or third party committed a criminal violation related to the loan, SED will notify OIG for possible criminal investigation according to \*--subparagraph C and 9-AO, paragraph 53. SED must also send a copy of this notification--\* to OGC. If OIG decides to investigate, SED will consult with OIG before taking any action against the borrower.

#### C Collection of Information and Referral to State Office

\*--The authorized agency official will refer civil and criminal cases to the State Office.

If the County Office believes the default is because of conversion, fraud, or waste, the initial report to the State Office can be made by completing FSA-2551, page 3 for conversion, page 5 for fraud, or page 6 for waste. The State Office will then report this information by whatever means is convenient and effective to OIG and/or OGC, as appropriate. If OGC or OIG determines it might pursue the case further, the authorized agency official will be informed of the decision, by memorandum, and will prepare FSA-2550, FSA-2551, and, if applicable, a Claims Collection Litigation Report, for submission to SED. SED will submit the referral to OGC and/or OIG, as appropriate. If neither a criminal or civil case will be pursued, the authorized agency official will be informed and should proceed as directed by the State Office.

SED may issue a State Supplement as required.--\*

#### D Role of State Office

\* \* \* The State Office will flag the account "CAP" upon referral to OGC. If a judgment is:

- obtained against a borrower, the account must be set up with judgment coding using a 3B transaction and FSA-2576, and the "CAP" flag should be removed from the borrower's account

**421 Handling Civil and Criminal Cases (Continued)****D Role of State Office (Continued)**

- obtained against a third party, the State Office will complete and send FSA-2562 to \*--NFAOC, DLD attached to the 5G transmittal letter to be flagged “TPJ” (Exhibit 11), and the “CAP” flag should be removed
- to be reversed, the State Office must send FSA-2562 to NFAOC, DLD attached to a 5H transmittal letter.

**Note:** Only NFAOC, DLD can assign or reverse a “TPJ” flag.--\*

**E Notification to Third Party Purchasers When a Borrower Has Not Properly Accounted for Proceeds**

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will first look to the borrower for restitution. If FSA is in liquidation, FSA will usually attempt to liquidate remaining chattel security on which FSA holds a first lien before making demand or taking civil action against third party purchasers. However, FSA will, with SED concurrence, notify a third party purchaser according to 4-FLP, paragraph 181 when it is necessary to protect the interest of the Government.

**F Notification When a Borrower Has Not Properly Accounted for Proceeds**

When a borrower has not properly accounted for the proceeds of the sale of security, FSA will service the account according to 4-FLP, Part 7.

**G Deficiency Judgment**

In some cases, it is in the Government’s best interest to obtain a deficiency judgment for balances remaining after all security has been liquidated.

The authorized agency official shall:

- make a recommendation about whether a deficiency judgment should be pursued according to subparagraph 533 F
- include information about nonsecurity assets on which a judgment lien may be obtained when referring cases to the State Office according to subparagraph C.

**Note:** Pursuing a deficiency judgment on every case is **not** advisable and may not be a good use of Government resources.

\*--Deficiency judgments are serviced under 7-FLP, Part 11.--\*

**422-430 (Reserved)**

**Section 3 (Withdrawn--Amend. 34)**

**431-434 (Withdrawn--Amend. 34)**

**435-440 (Reserved)**



## Part 12 Liquidation Overview

### 441 Introduction to Liquidation

#### A General Information

Parts 13 through 17 address complete liquidation of security. Partial disposition of security is handled according to 4-FLP, Part 7. The liquidation parts are:

- Part 13, Voluntary Liquidation
- Part 14, Voluntary Conveyance of Security
- Part 15, Loan Acceleration
- Part 16, Involuntary Liquidation
- Part 17, Liquidation by a Third Party.

While FSA works with a borrower to complete voluntary liquidation, FSA does not delay involuntary liquidation procedures to accommodate the borrower.

#### B Voluntary Liquidation

A borrower may voluntarily liquidate FSA loan security by 1 or more of the following:

- selling security as described in Part 13
- transferring security as described in 4-FLP, Part 9
- conveying security as described in Part 14.

A current borrower or a borrower in default may voluntarily liquidate FSA security.

FSA does not set any time limits or establish formal procedures for the current borrower who voluntarily decides to sell farming assets, as long as the borrower continues to meet all FSA loan obligations and liquidates the security according to FSA requirements.

#### C Involuntary Liquidation

If a borrower in default has received all servicing options, is unable to develop a feasible plan, and does not voluntarily liquidate FSA security according to FSA mandated servicing timeframes, FSA will initiate or continue involuntary liquidation actions according to Part 16.

## 442 Conditions for Liquidation

### A Current Borrowers

With prior Agency approval, a borrower who is not in default may voluntarily liquidate the security to repay FSA loans in full. The borrower may apply for debt settlement according to 7-FLP, Parts 8 and 12 if complete liquidation of all FSA loan collateral will not satisfy the FSA debt.

If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

### B Program Borrowers in Default

**[7 CFR 766.351(b)] (1) If the borrower does not apply, does not accept, or is not eligible for primary loan servicing, conservation contract, market value buyout or homestead protection, and all administrative appeals are concluded, the Agency will accelerate the borrower's account in accordance with §§766.355 and 766.356 (Part 15), as appropriate.**

**(2) Borrowers may voluntarily liquidate their security in accordance with §§ 766.352, 766.353 and 766.354 (Part 13). In such case, the Agency will:**

**(i) Not delay involuntary liquidation action.**

**(ii) Notify the borrower in accordance with subpart C (Part 3) of this part, prior to acting on the request for voluntary liquidation, if the conditions of paragraph (b)(1) of this section have not been met.**

If a borrower in default wants to voluntarily liquidate security before FSA accelerates the borrower's loans, the borrower must pursue voluntary liquidation according to the applicable liquidation method as described in Parts 13 and 14 or 4-FLP, Part 9. However, FSA will continue to notify the borrower of primary loan servicing according to Parts 3 and 6 and to follow the process of acceleration and involuntary liquidation without delay. When discussing voluntary liquidation with the borrower, they should be informed that if they are in default and the default cannot be cured, FSA cannot pause and will continue to process the account to acceleration and liquidation if necessary. The authorized agency official must be aware that several actions may need to be taken simultaneously.

**462 Voluntary Liquidation of Real Property (Continued)****D Sales That Do Not Satisfy the Borrower's Debt**

**[7 CFR 766.352(a)] (4) The Agency will approve the sale of property when the proceeds do not cover the borrower's full debt only if:**

- (i) The sales price must be equal to or greater than the market value of the property; and**
- (ii) The sale is in the Agency's financial interest.**

If the borrower submits a debt settlement application with the sale request, the authorized agency official will forward the file to SED with the required debt settlement information as \*--required by 7-FLP, Part 12.--\*

**E Approving the Sale**

After the authorized approval official signs FSA-2060 approving the borrower's request for sale of real property, FSA will provide a copy of the signed form to the borrower.

The authorized agency official may, but is not required to, attend the closing of the sale. If necessary, the authorized agency official may contact the borrower's closing agent to ensure proper distribution of the sale proceeds.

**F Rejecting the Sale Request**

If the request for sale is not approved, the authorized agency official will notify the borrower in writing of the reasons for not approving the sale and offer appeal rights. See 1-APP for explanation of borrower's appeal rights.

## 463 Closing the Sale of Real Property

### A Processing the Sale Proceeds

After the sale, the authorized agency official will record the transaction and credit the borrower's account.

**[7 CFR 766.352(a)(3)] The sale proceeds are applied in order of lien priority, except that proceeds may be used to pay customary costs appropriate to the transaction provided:**

**[7 CFR 766.352(a)(3)] (i) The costs are reasonable in amount;**

Any costs beyond those believed reasonable by the authorized agency official must be supported by the borrower as being typical for similar transactions in the area.

**[7 CFR 766.352(a)(3)] (ii) The borrower is unable to pay the costs from personal funds or have the purchaser pay;**

**[7 CFR 766.352(a)(3)] (iii) The costs must be paid to complete the sale;**

Only costs essential for the actual sale will be released. Capital gains taxes are not considered essential for completing an actual sale and are not FSA's responsibility.

**[7 CFR 766.352(a)(3)] (iv) Costs are not for postage and insurance of the note while in transit when required for the Agency to present the promissory note to the recorder to obtain a release of a portion of the real property from the mortgage.**

Examples of customary costs may include the following:

- real estate taxes that must be paid to complete the transaction
- title examination
- surveys
- abstracts
- title insurance
- reasonable attorney's fees
- real estate broker's commissions
- judgment liens.

The borrower's closing agent will distribute sale proceeds according to lien priority, as specified on FSA-2060.

The authorized agency official will apply the proceeds from the sale to the borrower's FSA loan account according to 4-FLP, Part 5.

The authorized agency official will record the sale through appropriate issuance, distribution, and filing to FSA records of the appropriate deeds and settlement documents.



**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. (7-FLP, Part 12)

If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

Judgment debt will be serviced according to 7-FLP, Part 11.--\*

**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 7-FLP, Part 12.--\*

**E Approving the Sale**

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

**F Rejecting the Sale Request**

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

**465 Closing the Sale of Chattel****A Processing the Sale Proceeds**

The auctioneer or clerk of sale will distribute the sale proceeds according to lien priority as specified on FSA-2571.

After the sale, the authorized agency official will:

- record the transaction and credit the borrower's account
- record the sale of chattel on FSA-2040
- apply the proceeds from the sale to the borrower's FSA loan account according to 4-FLP, Part 5.

**B Release of Liens**

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

**C Remaining Balance**

If the proceeds do not pay the borrower's FSA debt in full, FSA will continue to service the borrower's account.

If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G \*--and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

Judgment debt will be serviced according to 7-FLP, Part 11.--\*

**466-480 (Reserved)**



**497 Real Property Conveyance Application Requirements (Continued)****A Application (Continued)**

**[7 CFR 766.353(a)] (6) Assignment of all leases to the Agency. The borrower must put all oral leases in writing;**

The borrower must put oral leases, including all terms and conditions, in writing and assign all leases to FSA. If a borrower is leasing land on which FSA holds a security interest to a third party for income, FSA will receive all lease proceeds after the conveyance. See 4-FLP, Part 5 for handling lease proceeds.

**[7 CFR 766.353(a)] (8) Complete debt settlement application in accordance with \*--subpart B of 7 CFR part 1956 (7-FLP, Part 12) before or in conjunction with the--\* voluntary conveyance offer if the value of the property to be conveyed is less than the Agency debt; and**

The borrower must complete and submit RD 1956-1 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security fully satisfies the FSA debt.

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

**[7 CFR 766.353(a)] (9) Any other documentation required by the Agency to evaluate the request.**

**498 Additional Requirements****A Other Use Rights**

If water rights, mineral rights, development rights, or other use rights encumbered by FSA \*-are not included in FSA-2569, or other guidance is needed, the authorized agency official-\* refers the case to SED to obtain OGC guidance as required on the appropriate documents needed to transfer these rights to FSA. SED may issue a State supplement as required.

**B Obtaining an Appraisal**

The authorized agency official will obtain an appraisal of the property to establish its current market value. The appraisal must be based on the “as is” market value according to 1-FLP, Part 6 and must not include potential deed restrictions or easements FSA may place on the property.

**C Conducting a Due Diligence Review**

The authorized agency official will arrange to conduct a due diligence review to assess environmental risk according to 1-EQ. A qualified agency official will conduct the due diligence review to determine whether FSA requires a more detailed environmental review. The cost of any hazardous waste or other environmental clean-up identified by the due diligence review may be considered by FSA, but will not usually be included in Exhibit 37 as clean-up is usually not required for sale of the property.

**D Obtaining a Title Search****[7 CFR 766.353(a)(7)] Title insurance or title record for the security, if available;**

The authorized agency official will conduct a new lien search, according to the standard procedures used in the borrower’s State and the State supplement issued according to subparagraph 462 B, if adequate title information is not available in the borrower’s case file.

The borrower will pay the cost of all title searches or it will be charged to the borrower’s account. \* \* \*

**499 Processing the Borrower's Conveyance Offer (Continued)****C Prior and Junior Liens (Continued)**

If the borrower does not satisfy all junior liens, the loan approval official may contact junior lienholders to negotiate the most favorable settlement possible and determine whether it is in FSA's best interest to settle the lien.

SED must approve all junior lien settlements.

The authorized agency official will charge any payments on junior liens to the borrower's account.

**D Rejecting the Conveyance**

If the approval official determines that FSA should not accept the conveyance, the authorized agency official will deny the conveyance, clearly stating the reasons for the rejection, offering appeal rights under 1-APP, and returning the original FSA-2569 and FSA-2570 to the borrower. A copy of FSA-2569 and FSA-2570 will be retained in the case file.

**E Accepting the Conveyance**

If the approval official determines that FSA should accept the conveyance, FSA-2570 will be executed.

**F Accepting the Conveyance and Rejecting the Debt Settlement Application**

In cases where FSA accepts the conveyance offer and denies the debt settlement application, the authorized agency official will encourage the borrower to negotiate an acceptable debt settlement offer.

The authorized agency official will advise the borrower that:

- after all debt settlement appeal rights have been concluded, and the conveyance has been completed, the borrower will be notified of any remaining account balance
- \*--if the borrower does not pay the remaining account balance, any offset taken under 7-FLP (including IRS tax refunds, Federal salaries, Federal contractor/vendor--\* payments, Federal benefit payments such as Social Security, and State income tax refunds for States participating in centralized offset through TOP) will continue
- the debt may also be referred to Treasury's cross-servicing program where Treasury may \*--pursue collection by garnishing the borrower's wages. See 7-FLP, Parts 8 and 9.--\* Treasury adds a collection fee for all monies it collects.

Negotiating an acceptable debt settlement with FSA should be strongly encouraged to avoid collection actions on the remaining balance and additional collection fees by Treasury.

**500 Closing the Real Property Conveyance****A Recording the Deed**

The authorized agency official will forward the deed and release of lien to the closing agent with instructions for closing the conveyance, recording the deed, and releasing the lien provided no new liens have been recorded since the title search.

The closing agent will provide a certification of title to FSA after recording the deed. The title must have no other liens or encumbrances except for those previously approved by FSA.

**B Junior or Unauthorized Liens**

If the closing agent discovers junior or other unauthorized liens, the closing agent provides the authorized agency official with the lienholder's name, amount of lien, date recorded, and the recording information. The closing agent will return the unrecorded deed to the authorized agency official and await further instructions.

The authorized agency official will notify the borrower of the lien, inform them that they are responsible for resolving the situation, and establish a 30-calendar-day deadline for the resolution or the voluntary conveyance will be denied. The conveyance will not be closed unless the unauthorized liens are removed. In the meantime, FSA will proceed with required servicing actions with no delay.

**C Charging the Borrower's Account**

**[7 CFR 766.353(d)(1)] The Agency will charge the borrower's account for all recoverable costs incurred in connection with a conveyance in accordance with § 765.203 (4-FLP, Part 6) of this chapter.**

The authorized agency official will charge the borrower's account for all recoverable costs \*--and expenses in connection with the conveyance according to 1-FLP, Exhibit 25. These--\* costs may include taxes and assessments, other liens, closing agent fees, and any other authorized costs.



## 500 Closing the Real Property Conveyance (Continued)

**D Crediting the Borrower's Account**

**[7 CFR 766.353(d)(2)] The Agency will credit the borrower's account for the amount of the market value of the property less any prior liens, or the debt, whichever is less. In the case of an American Indian borrower whose loans are secured by real estate located within the boundaries of a Federally recognized Indian reservation, however, the Agency will credit the borrower's account with the greater of the market value of the security or the borrower's Agency debt.**

If the market value is equal to or greater than the borrower's account balance, including prior liens and all other recoverable costs, and always in the case of an American Indian borrower that meets the criteria in this subparagraph, the conveyance satisfies the account. The authorized agency official will stamp the notes "Satisfied by Surrender of Security and Borrower Released from Liability," and return them to the borrower with a copy of FSA-2570 showing FSA's acceptance.

If the conveyance does not satisfy the account, the authorized agency official will credit the borrower's account for the market value of the loan collateral, less prior liens, and provide the borrower a copy of FSA-2570 showing FSA's acceptance of the conveyance.

After a voluntary conveyance of security is closed and no FSA security remains under its security instruments, FSA liens of record are released according to 4-FLP, Part 5.

If RD 1956-1 submitted according to subparagraph 497 A was:

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

**500 Closing the Real Property Conveyance (Continued)**

**E Final Processing**

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

- record the property and assign it an ID number in ADPS
- complete a 3E transaction in ADPS as an advice of property acquired transaction

**Note:** The date of acquisition is the date the deed to FSA is recorded.

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

**Note:** The date of acquisition is the date the deed to FSA is recorded.

- prepare an inventory account file according to Part 19. The certificate of title obtained by FSA will be placed in this file.

**501-515 (Reserved)**

**517 Chattel Conveyance Application Requirements (Continued)****A Application (Continued)**

**[7 CFR 766.354(a)] (6) Complete debt settlement application in accordance with \*--subpart B of 7 CFR part 1956 (7-FLP, Part 12) before or in conjunction with the--\* voluntary conveyance offer if the value of the property to be conveyed is less than the debt.**

The borrower must complete and submit RD 1956-1 with all required supporting documentation for debt settlement, unless the value of the voluntary conveyance security will fully satisfy the FSA debt.

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

**518 Additional Requirements****A FSA Actions After Receiving Offer**

**[7 CFR 766.354(b)] The Agency will accept conveyance of chattel only if:**

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

This includes consideration of the execution of FSA-2571.

**[7 CFR 766.354(b)] (2) The borrower can convey the chattel free of other liens;**

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

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

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

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

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

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

**520 Closing the Chattel Conveyance****A Charging the Borrower's Account**

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

**B Crediting the Borrower's Account**

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

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

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

If RD 1956-1 submitted according to subparagraph 517 A was:

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

**C Final Processing**

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

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

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

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

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

- prepare an inventory account file according to paragraph 721.

**521-530 (Reserved)**



**Part 15 Loan Acceleration****531 General Requirements****A Acceleration Differs Among States**

The loans will be accelerated when FSA determines that a borrower cannot or will not meet their FSA loan obligations and all applicable loan servicing options have been offered and concluded. SED, in consultation with OGC, will issue a State supplement to provide detailed guidance on acceleration. The Acceleration Notices in this handbook (Exhibits 48, 49, 50, and 51) will be used unless specifically modified by OGC.

**B Recordkeeping**

During the acceleration process, the authorized agency official must make entries into the running record on the acceleration process and retain any letters, forms or documentation associated with the acceleration that are required by this handbook and State supplements.

**C 2008 Farm Bill Acceleration Moratorium**

As provided in 7 CFR 766.358, FSA will not accelerate the program loans of a borrower who has filed a program discrimination complaint that has been accepted by USDA's Office of Adjudication until the complaint has been either:

- resolved by USDA
- closed by a court of competent jurisdiction.

See 1-FLP, subparagraph 41 I for additional guidance on the acceleration moratorium and suspension of interest accrual and offset.

**532 Ensuring That Servicing Rights Have Elapsed****A Conditions for Acceleration**

**[7 CFR 766.355(a)(1)] The Agency accelerates loans in accordance with this section, unless:**

**(i) State law imposes separate restrictions on accelerations.**

**(ii) The borrower is American Indian, whose real estate is located on an Indian reservation.**

Acceleration of American Indian borrowers whose real estate is located on an Indian reservation is addressed in paragraph 537.

**[7 CFR 766.355(a)(3)] All borrowers must receive prior notification in accordance with subpart C (Part 3) of this part, except for borrowers who fail to graduate in accordance with § 766.101(a)(8).**

If a borrower meets all of the following conditions, FSA moves to accelerate the borrower's loans.

The borrower is in monetary or nonmonetary default according to Part 3.

The borrower cannot or will not cure the default. A borrower meets this condition when the borrower is not eligible for primary loan servicing, does not accept FSA's servicing offer, or does not apply for primary loan servicing, after receiving all the appropriate notifications according to Parts 3 and 6.

The borrower has completed all appeals and mediation according to Part 6 and 1-APP and is not under court jurisdiction that bars FSA from acceleration.



**533 Acceleration Actions****A Preparation of the Case File**

When the borrower meets the conditions for acceleration, the authorized agency official will prepare the case file for acceleration. A State supplement will be issued to describe the required procedures to accelerate FLP accounts, including “chattel only” accounts.

**B Civil Rights and Primary Loan Servicing Reviews**

FSA-2580 and FSA-2581 are used to document and certify that FSA fully and appropriately considered the borrower for servicing and that there is no evidence of inconsistencies, inequitable treatment, or discrimination complaints.

\*--The authorized agency official will ensure that FSA-2580 has been completed for primary loan servicing. The next level supervisor or State FLS or FLC will review primary loan servicing actions and sign FSA-2580 as the reviewer. FSA-2580 is not required in cases referred for acceleration because of the borrower’s failure to graduate or for acceleration of nonprogram loans.

DD will:

- complete FSA-2581, Part A
- submit FSA-2580 (for accounts with primary loan servicing) and FSA-2581 with case files to SCRRG for action.

SCRRG consists of SED, FLC, and the State civil rights coordinator. Once SCRRG determines that acceleration can continue and documents this decision on FSA-2581, Parts B and C, the account will be submitted for discrimination complaint status clearance according to 1-FLP, Exhibits 12 and 13. Once the discrimination complaint status clearance process has been completed indicating that acceleration can continue, the authorized agency--\* official will execute the problem case report.

**C Problem Case**

FSA-2550 will be completed to document the status and circumstances of the account when there is real estate security.

**D Determining Prior Liens**

If current lien information is not in the case file, the authorized agency official will obtain a title or lien search on all security property to determine whether there are any prior liens on the property.

**533 Acceleration Actions (Continued)****E Property Value**

The authorized agency official will include either the estimated value or appraised value of the security in the case file. The authorized agency official may estimate the market value of the property, unless there are prior liens other than a current-year tax lien. If there are prior liens, the authorized agency official must obtain an appraisal to determine the “as is” market value of the property according to 1-FLP, Part 6, unless a State supplement allows the use of an estimated value.

**F Narrative and Deficiency Judgment Recommendation**

The authorized agency official will include in the case file a narrative description of the borrower’s financial condition and the conclusion of all appeals and mediation.

The authorized agency official will recommend to the DD whether FSA should pursue a deficiency judgment. To make a recommendation, the authorized agency official will determine whether foreclosure will likely satisfy the borrower’s FSA debt. The basic formula for this calculation is:

Sale price - sale costs (if considered separate from recoverable costs and expenses) - recoverable costs and expenses to be charged - prior liens = net proceeds.

This calculation is an estimate. It may not be used as the basis for charging or crediting the borrower’s account. In using this formula, the authorized agency official must be aware of what costs are charged to the borrower’s account and what costs are deducted from the amount credited to the borrower’s account.

If the liquidation will not satisfy the borrower’s FSA account, FSA will assess the borrower’s financial situation to determine whether further recovery on the account is possible through a deficiency judgment. The authorized agency official will include these findings and a recommendation in the borrower’s case file.

If the borrower’s account could be referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien

\*--according to 7-FLP, Part 11, any attorney’s fees and any fees charged by DOJ will be--\* added to the debt.

**G Submitting the Problem Case File**

The problem case file will be submitted to the DD as soon as the file is complete or within 90 calendar days of when the borrower meets all acceleration criteria, whichever come first.

**534 Accelerating a Borrower's Loans****A Approving Acceleration**

DD will review the problem case file and if the account meets the acceleration criteria according to paragraphs 532 and 533, the account will be accelerated.

**B Returning the File**

If DD does not concur with acceleration or the file is not complete, the file will be returned to the authorized agency official with a request for additional information or instructions for additional servicing actions.

**C Proceeding With Acceleration**

**[7 CFR 766.355(a)(2)] The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.**

DD accelerates all the borrower's loans and any shared appreciation agreements, unless the borrower meets either of the following conditions:

- if the borrower is in default because of a failure to graduate, DD will send the file through the State Office to obtain OGC's concurrence before acceleration
- if the borrower is in military service, DD will confer with SED for review and instructions.

**D Mailing the Acceleration Notice**

\*--DD will send Exhibit 48, 49, 50, or 51, as appropriate according to State instructions, to the borrower by certified and regular mail on the same day. Exhibit 48, 49, 50, or 51 will be--\* sent to the last known address of the entity and each obligor who signed any promissory notes. For American Indian borrowers whose real estate security is located within Federally recognized reservation boundaries, see subparagraph 537 C for letters when accelerating a loan and notifying the borrower's Tribe.

DD will:

- \*--send the authorized agency official a copy of Exhibit 48, 49, 50, or 51 sent to the--\* borrower
- ensure that FSA-2562 is completed correctly
- submit FSA-2562 to the State Office to flag the account "ACL".

**Note:** The ACL flag (Exhibit 11) will be removed when the account is paid in full, debt settled, or decelerated for any reason.

**534 Accelerating a Borrower's Loans (Continued)****E Contacting Prior Lienholders**

After FSA accelerates the loans, the authorized agency official may contact any prior lienholders. In general, contacting prior lienholders may be most appropriate, although not required, in nonjudicial foreclosure States. In judicial foreclosure States, lienholders are contacted as part of the legal process. State supplements may be issued for additional guidance on the notification of prior lienholders.

FSA may:

- give the prior lienholder the opportunity to foreclose
- join in the action if the lienholder wants to foreclose
- foreclose and handle the prior liens by either:
  - settling the prior liens before foreclosing
  - foreclosing subject to the prior liens.

The authorized agency official will consult the State Office to seek guidance and recommend the option that results in the greatest net recovery to FSA.

**535 Payments After Acceleration****A Time Limitations**

**[7 CFR 766.355(b)] The borrower has 30 days from the date of the Agency acceleration notice to pay the Agency in full.**

**B Payment Methods**

**[7 CFR 766.355(c)] The borrower may:**

**[7 CFR 766.355(c)(1)] Pay cash;**

Acceptable forms of payment and processing payments are described in 4-FLP, Part 5.

**[7 CFR 766.355(c)(2)] Transfer the security to a third party in accordance with Part 765, subpart I (4-FLP, Part 9) of this chapter;**

**[7 CFR 766.355(c)(3)] Sell the security property in accordance with §766.352 (Part 13);**  
**or**

**[7 CFR 766.355(c)(4)] Voluntarily convey the security to the Agency in accordance with §§ 766.353 and 766.354 (Part 14), as appropriate.**

**C Partial Payments**

**[7 CFR 766.355(d)] The Agency may accept a payment that does not cover the unpaid balance of the accelerated loan if the borrower is in the process of selling security, unless acceptance of the payment would reverse the acceleration.**

SED, in consultation with OGC, will issue a State supplement providing guidance on each State's policy and procedures for accepting partial payments.

**D Borrower Files for Bankruptcy**

If the borrower files for bankruptcy after FSA accelerates the account, FSA will suspend foreclosure and proceed according to Part 11.

**536 Proceeding After Acceleration Deadlines**

**A Failure to Satisfy the Debt**

**[7 CFR 766.355(e)] The Agency will liquidate the borrower's account in accordance with § 766.357 (Part 16) if the borrower does not pay the account in full within the time period specified in the acceleration notice.**

**B Forwarding the Case File**

DD will forward the case file with all relevant information and documentation to SED.

**C Account Information**

\*--In judicial foreclosure States, SED will request FSA-2560 be prepared by NFAOC, DLD if required by the U.S. Attorney. NFAOC, DLD will respond with FSA-2561. In nonjudicial foreclosure States, the account balance and recapture information may be obtained from Field Office files and NFAOC ADPS systems.--\*

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.  <b>Note:</b> 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"> <li>• notify the borrower using Exhibit 57</li> <li>• proceed with foreclosure action according to Part 16.</li> </ul> <b>Note:</b> 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 NFAOC, DLD Responsibilities**

The authorized agency official or NFAOC, DLD shall do the following.

- NFAOC, DLD 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 NFAOC, DLD 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 NFAOC, DLD accordingly, including the information from the payment transmittal record.
- NFAOC, DLD 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 16 Involuntary Liquidation****Section 1 General Information****551 Introduction****A General Procedures**

**[7 CFR 766.351(a)(1)] When a borrower cannot or will not meet a loan obligation, the Agency will consider liquidating the borrower's account in accordance with this subpart.**

FSA will move to liquidate security after acceleration.

The involuntary liquidation process differs among States, and in particular between judicial and nonjudicial foreclosure States. SED, in consultation with OGC, will issue a State supplement to provide detailed guidance on involuntary liquidation.

**[7 CFR 766.357(b)(4)] After the date of foreclosure, the borrower or former owner retains no statutory, implied, or inherent right of possession to the property beyond those rights granted by state law.**

If FSA acquires property as a result of involuntary liquidation, the property becomes inventory property. FSA maintains and disposes of inventory property according to Part 21.

**B Recordkeeping**

During the involuntary liquidation process, the authorized agency official must make entries into the running record on the liquidation process and retain any letters, forms, or documentation associated with the acceleration that are required by this handbook and State supplements.

**C Conditions for Involuntary Liquidation**

**[7 CFR 766.357] (a) The Agency will liquidate the borrower's security if:**

**(1) The borrower does not satisfy the account in accordance with §§ 766.355 and 766.356 (Part 15), as appropriate;**

**(2) The involuntary liquidation is in the Agency's financial interest.**

## 551 Introduction (Continued)

**D Charging the Borrower's Account**

**[7 CFR 766.357(c)(1)] The Agency will charge the borrower's account for all recoverable costs incurred by the Agency as a result of the repossession and sale of the property.**

If the borrower's account is referred to DOJ for foreclosure and/or other collection action after foreclosure, such as a deficiency judgment or enforcing a judgment lien according to \*--7-FLP, Part 11, any attorney's fees and any fees routinely charged by DOJ will be added--\* to the amount of debt reported to DOJ. Borrowers have been informed of this fee by notifications of offset and/or notifications of acceleration. SED will issue a State Supplement as required on the proper calculation of the amount to be reported to DOJ.

**E Crediting the Borrower's Account**

**[7 CFR 766.357(c)(2)] The Agency will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs.**

**F Outstanding Loan Balances Remaining After Repossession**

**[7 CFR 766.357(c)(3)] If an unpaid balance on the Agency loan remains after the sale of the repossessed property, the Agency may debt settle the account in accordance with \*--subpart B of 7 CFR Part 1956. (7-FLP, Part 12)**

For any outstanding balance remaining after foreclosure for which the borrower is still liable, if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

Judgment debt will be serviced according to 7-FLP, Part 11.--\*

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

**567 Foreclosure Sale (Continued)****E Reporting on the Foreclosure Sale**

After the foreclosure sale, the authorized agency official writes a report on the sale for SED. The report should contain, at a minimum:

- name of the successful bidder
- amount of the successful bid
- recommendation on any further actions required of FSA after the sale.

SED will forward this report to OGC and/or the U.S. Attorney, as appropriate.

**568 FSA Actions After Foreclosure****A When FSA Acquires the Property**

Within 10 workdays of the date FSA acquires the property, the authorized agency official will send, by certified mail, FSA-2540 to inform the borrower of homestead protection rights if a residence is on the property. The acquisition date for real estate is the date FSA records the deed. For chattels, the date of acquisition is the date the Bill of Sale or title is executed transferring ownership to FSA.

If FSA acquires the property at the foreclosure sale, the authorized agency official completes FSA-2587 and FSA-2588 and records the information in ADPS by completing a 3E transaction for acquired property and a 5L transaction for acquired property maintenance. For property subject to redemption rights, the authorized agency official waits until the redemption period expires to record the deed and complete the ADPS transaction. The authorized agency official prepares an inventory file according to paragraph 721 when FSA records the deed. State supplements may be issued as required to comply with State law.

**B Establishing an Inventory Account**

\*--NFAOC, DLD will establish an inventory account for all acquired property under the--\* assigned property identification number. The value of the property is the market value of the property on the date of the foreclosure sale.

## 568 FSA Actions After Foreclosure (Continued)

**C Existing Leases**

If FSA's foreclosure effort did not extinguish existing leases and if FSA acquires property while under lease, the authorized agency official:

- obtains and places a copy of the lease in the case file
- attempts to convert existing oral leases to writing on FSA-2591
- \*--establishes a lease account in NFAOC with a 1S transaction in ADPS--\*
- notifies the lessee in writing that the Government has acquired the property and where the lessee must send lease payments
- applies payments received by FSA that were due and payable before the date of FSA acquisition to any unsatisfied balance, and returns any surplus to the former borrower
- applies payments that are due and payable after the acquisition date to the lease account.

FSA does not extend the lease term and prefers not to sell property subject to a lease. FSA may discuss with the lessee the possibility of shortening or canceling the lease.

**D Crediting the Borrower's Account**

**[7 CFR 766.357(b)(2)] If the Agency acquires the foreclosed property, the Agency will credit the borrower's account in the amount of the Agency's bid except when incremental bidding was used, in which case the amount of credit will be the maximum bid that was authorized. If the Agency does not acquire the foreclosed property, the Agency will credit the borrower's account in accordance with State law and guidance from the Regional OGC.**

Accounts with real property security located within a federally recognized Indian Reservation will be credited according to paragraph 569.

**568 FSA Actions After Foreclosure (Continued)****E Outstanding Loan Balances Remaining After Foreclosure**

**[7 CFR 766.357(b)(5)] If an unpaid balance on the Agency loan remains after the foreclosure sale of the property, the Agency may debt settle the account in accordance \*--with subpart B of 7 CFR Part 1956. (7-FLP, Part 12)**

If FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

Judgment debt will be serviced according to 7-FLP, Part 11.--\*

**569 Real Property Located Within a Federally Recognized Indian Reservation****A General Requirements**

The borrower's real property securing FSA debt must be located within the boundaries of a Federally recognized American Indian reservation.

The borrower must be a member of the tribe that has jurisdiction over the reservation.

**B Bidding on Real Property**

At a foreclosure sale, FSA bids the greater of the property's market value or FSA's debt against the property.

**C Crediting the Borrower's Account**

**[7 CFR 766.357(b)] (3) Notwithstanding paragraph (b)(2) (subparagraph 568 D), for an American Indian borrower whose real property secures an Agency loan and is located within the confines of a Federally-recognized Indian reservation, the Agency will credit the borrower's account in the amount that is the greater of:**

- (i) The market value of the security; or**
- (ii) The amount of the Agency debt against the property.**

**570-580 (Reserved)**



**Section 3 Chattel****581 Repossession of Chattel****A Repossessing Chattel**

FSA may take possession of chattel as part of an involuntary liquidation. FSA may acquire chattel by bidding at a sale only if bidding is clearly in FSA's interest and SED approves acquisition. SED determines the bid amount and designates an authorized agency official to attend the sale. Prior lienholders are notified of the repossession, as appropriate by FSA-2572.

FSA-2571 will be completed for liquidation of chattel security by FSA or the borrower.

**B Borrower Agrees to Sell Property During Involuntary Liquidation**

If voluntary liquidation will not be delayed, the borrower may receive FSA assistance in arranging chattel liquidation and release of liability or debt settlement using FSA-2571 and RD 1956-1:

- after the account has been accelerated
- \*--before referral to Treasury as set forth in 7-FLP.--\*

**C Documenting Items**

The authorized agency official documents the liquidated items on FSA-2040.

**581 Repossession of Chattel (Continued)****D Peaceably Obtaining Possession of Security**

If the borrower does not liquidate the chattel security with FSA assistance, the authorized agency official will inform the borrower of FSA's intent to repossess the property.

If the borrower consents to the repossession or does not resist FSA's efforts to collect the security, the authorized agency official will contact an auctioneer, the State Contracting Officer or other third party, as required by State policy to collect the security. The authorized agency official should coordinate logistical details with the borrower and the auctioneer including:

- where the property is located
- when the chattel should be collected
- where the chattel will be delivered.

The authorized agency official will instruct the auctioneer that if peaceful repossession cannot be obtained, the auctioneer should not attempt to collect the chattel and should report back to the authorized agency official. If the auctioneer cannot collect the security, the authorized agency official proceeds according to subparagraph E.

**E Initiating Legal Procedures**

If the borrower does not consent to the repossession, the authorized agency official forwards the borrower's case file to SED. Based on the State's procedures for handling involuntary liquidation, SED processes the case file to initiate foreclosure.

- SED may forward the case file with all relevant information and documentation to OGC and/or the U.S. Attorney.
- SED may keep the borrower's file in the State Office. In this case, SED is responsible for initiating and processing the foreclosure.

**F Borrower Abandons Property**

If the borrower abandons the property or if the security is in danger or risk of injury or degradation, the authorized agency official must act according to Part 18.

**582 (Withdrawn--Amend. 22)**

**583-600 (Reserved)**



**604 Redemption Rights****A Authority to Redeem Property**

When State law provides FSA with redemption rights after a liquidation sale, SED will make the final determination on whether FSA will exercise its redemption rights, based on the best financial interest of the Government.

**B Preparing the Case File**

The authorized agency official will update the case file to forward to SED when the estimated recovery value of the liquidated property is substantially greater than the amount of the claim, prior liens, and sale expenses. The authorized agency official will prepare the case file to include all necessary information for SED to make a determination. The case file must include:

- a current appraisal of the property
- Exhibit 60 as justification for the redemption
- lien search or title opinion
- documentation explaining why acquiring the property is in FSA's best interest
- all other relevant value and cost factors, including the value of the property after the sale and costs that FSA is likely to encounter in acquiring and reselling the property
- a recommendation from the authorized agency official regarding redemption.

**C Timing of Decision**

SED must make a decision far enough in advance to allow FSA to exercise its rights and redeem the property.

**D Selling Redemption Rights**

If SED decides not to redeem the property, FSA will allow its redemption rights to expire. In limited circumstances, SED, after consulting with OGC, may sell redemption rights.

**604 Redemption Rights (Continued)**

**E Final Actions Taken on the Account**

The borrower's account will be charged for all recoverable costs according to Part 16.

FSA will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs according to Part 16.

For any outstanding balance remaining after foreclosure for which the borrower is still liable, if FSA has not and/or will not pursue a deficiency judgment according to subparagraphs 421 G \*--and 533 F, the unsecured account balance will be serviced through offset and referral to Treasury as set forth in 7-FLP.

Judgment debt will be serviced according to 7-FLP, Part 11.--\*

In judicial foreclosure States only, unless the borrower voluntarily liquidated with a release of liability or debt settlement, SED completes FSA-2576 and completes a 3B transaction in ADPS to record a judgment account, if applicable.

**605-700 (Reserved)**

**707 Disposal of Personal Property From Inventory Real Property (Continued)****C Applying Proceeds From Sale of Personal Property**

**[7 CFR 767.52(c)] Proceeds from the public sale of personal property will be distributed as follows:**

- (1) To lienholders in order of lien priority less a pro rata share of the sale expenses;**
- (2) To the inventory account up to the amount of expenses incurred by the Agency in connection with the sale of personal property;**
- (3) To the outstanding balance on the Agency loan; and**
- (4) To the borrower, if the borrower's whereabouts are known.**

**D Personal Property Remaining After Public Sale**

If personal property is not sold, FSA may pay a mover or hauler to dispose of the items. The authorized agency official will contact the State Contracting Officer for guidance on hiring a mover or hauler.

**E Reclaiming Personal Property**

**[7 CFR 767. 52(b)] The owner or lienholder may reclaim personal property at any time prior to the property's sale or disposal by paying all expenses incurred by the Agency in connection with the personal property.**

**F Removing Abandoned Motor Vehicles From Inventory Property**

The authorized agency official will comply with applicable State laws concerning the removal of abandoned motor vehicles from inventory property. SED will, upon advice from OGC, issue a State supplement outlining the method FSA will follow.

**708 Reporting Acquisition or Abandonment of Secured Property to IRS****A Overview**

Federal law requires that acquired and abandoned property, as described in subparagraph C, be reported to IRS. IRS will use this information to determine whether a tax liability has been created for the borrower through abandonment or acquisition of the property.

**B Reporting Requirements**

The authorized agency official shall complete FSA-2585 within 10 calendar days of the date of acquisition or the date the property was determined to be abandoned, unless liquidation will be initiated by FSA or another lender within 3 months. In that case, no report is required \*--until liquidation is completed. The original (Copy A) will be sent to NFAOC, PRD. Copy B and Exhibit 66 will be sent to the borrower when Copy A is sent to NFAOC, PRD and Copy C will be retained in the borrower's file. NFAOC, PRD will use information--\* supplied to notify IRS.

Corrections of transactions occurring in the previous calendar year should be aggregated and filed as soon as possible but no later than October 1 of the filing year. For example, if an error was made in reporting a transaction that occurred in 2007 and was reported in February 2008, the correction must be submitted not later than October 1, 2008. The year entered on the form must be the calendar year of the abandonment or acquisition.

**C Transactions That Must Be Reported**

The following transactions must be reported:

- real property acquired by FSA by any means
- abandoned property when liquidation action will not be initiated within 3 months
- real property that was security for a FSA loan but was purchased by a third party at a foreclosure sale initiated by FSA or another lender
- sale or transfer of real security property.

**D Redemption Rights**

Any property required to be reported to IRS that is subject to redemption rights or dwelling redemption rights of the former borrower will not be reported until the end of the redemption period. This is the year that will be entered on FSA-2585.

## 742 Entering Into the Lease Agreement (Continued)

**B Lease Terms (Continued)**

**\*--[7 CFR 767.101(c)] (2) A maximum of 18 months to a beginning farmer or socially disadvantaged farmer the Agency selected as purchaser when no Agency loan funds--\* are available; or**

The following language will be inserted into the special stipulation section of the lease agreement for all leases under this heading:

“This lease will expire 18 months from the date of the inception of the lease or sooner should Farm Ownership funds become available before expiration of the lease. As soon as funds are available, the tenant will be expected to immediately furnish updated financial information if requested by the Agency. The sale will be expected to close within 30 calendar days of the date funds become available unless extended in writing by the Agency upon mutual agreement of both parties. The purchase price will be the price agreed to in the purchase agreement dated MM-DD-YYYY. In the case of the tenant being determined ineligible for Agency financing or being unable to present a feasible plan of operation at the time the funds become available, this lease agreement will be null and void. Any growing crops will be allowed to be removed at the normal harvest time. Any lease installments remaining to be paid for that crop year will need to be paid in full before removal of any crop. The tenant is required, as part of the lease agreement, to provide a first lien position on all crops growing or to be grown on this land equal to the amount of the rent due for the term of the lease.”

**[7 CFR 767.101(c)] (3) The shortest possible duration for all other cases subject to the following:**

**(i) The maximum lease term for such a lease is 12 months.**

**(ii) The lease is not subject to renewal or extension.**

FSA may not lease inventory property because of lengthy litigation and appeals for more than 12 months. These leases are not subject to renewal and extension. The authorized agency official must re-advertise property for lease to the general public because of lengthy litigations and appeals when a lease term ends.

**\*--When a lease term ends for a beginning farmer or socially disadvantaged farmer, the--\* authorized agency official must proceed according to Part 21.**

## 742 Entering Into the Lease Agreement (Continued)

**C Purchase Options**

**[7 CFR 767.101(g)] Only leases to a beginning farmer or socially disadvantaged famer or Homestead Protection Program participant will contain an option to purchase the property.**

FSA does not extend purchase options to a lessee who is not a beginning farmer, socially disadvantaged famer, or a Homestead Protection Program participant.

Terms of this option are included in the special stipulation section of the lease. The lease payments are not applied toward the purchase price. The purchase price is the advertised sales price as determined by an appraisal.

When a lease with an option to purchase is signed, FSA advises the lessee in writing that FSA may not be in a position to finance the purchase of the property because of lack of funding.

**D Security Deposit**

**[7 CFR 767.101(f)] The Agency may require the lessee to provide a security deposit.**

The amount of any security deposit will be determined by considering only the improvements or facilities that might be subject to misuse or abuse during the term of the lease. The amount of any required security deposit will be included in any advertisement of the property for lease.

\*--Security deposits will be remitted according to 3-FI and held by NFAOC, DLD until the authorized agency official makes the determination to return or otherwise dispose of the security deposit.

NFAOC, DLD will be requested by memorandum to return the deposit to the servicing--\* office for delivery to the lessee; or, if the deposit is to be retained by FSA, to apply it to the borrower's account (for custodial property) or to the inventory account, as appropriate after all appeal rights are exhausted.

## 742 Entering Into the Lease Agreement (Continued)

**E Lease Termination**

The lease may be terminated by either party upon 30 calendar day's written notice to the other party at that party's address set forth in the lease. If the property is sold subject to the lease, the new owner may terminate the lease by giving 30 calendar days notice to the lessee in the same manner, but in any event, the lessee shall retain the right to harvest any existing crops.

When a lease is terminated or when the property is sold before the expiration of the lease term, the authorized agency official notifies NFAOC, DLD of the termination and the effective date of the termination.

The lessee may appeal this termination according to 1-APP. During the period of any appeal, the tenant will still be responsible for payment of any accumulating lease payments according to the terms of the lease that was in force before the termination.

**F Acceptable Forms of Lease Payment**

[7 CFR 767.101(d)] The lessee may pay:

(1) A lump sum;

(2) On an annual installment basis; or

(3) On a crop-share basis, if the lessee is a beginning farmer or socially disadvantaged farmer under paragraph (a) of this section.

FSA prefers lump-sum or annual installment payment methods, but may approve a farm lease on a crop-share basis for a beginning farmer or socially disadvantaged farmer if it is the customary practice in the area.

For a crop-share lease, FSA must stipulate the lease amount and terms in the special stipulations section of the lease. In this case, the lessee markets the crops, provides FSA with documented evidence of crop income, and pays FSA the pro-rata share of the income. The authorized agency official is responsible for ensuring that FSA properly accounts for crops and for collecting the lease payments.

FSA applies the proceeds from inventory property leases to the lease account.

**743 FSA Procedures for Leasing Inventory Real Property****A Preparing the Lease Agreement**

The authorized agency official uses FSA-2591 or another form approved by OGC to lease property.

**B Establishing a Lease Account**

\*--On receipt of an inventory property lease, NFAOC, DLD establishes a lease account in the--\* lessee's name. In servicing the lease account, the authorized agency official may establish or remove a suspend code from a lease record by completing FSA-2587 according to the instructions.

**C Management of Leased Inventory Property**

**[7 CFR 767.103] (a) The Agency will pay for repairs to leased real estate inventory property only when necessary to protect the Agency's interest.**

**(b) If the lessee purchases the real estate inventory property, the Agency will not credit lease payments to the purchase price of the property.**

Generally, FSA pays only for repairs, such as replacing broken fixtures or repairing a leaking roof. FSA does not pay operating costs associated with leased inventory property.

When necessary, FSA may use management services, in addition to a lease to fully protect FSA's interest in a property. In all cases, the authorized agency official makes a determination of what types of services are needed and obtains prior written approval from SED.

**744 Leasing Other Types of Properties****A Lease of Inventory Nonreal Estate Property**

**[7 CFR 767.102] The Agency does not lease non-real estate property unless it is attached as a fixture to inventory real property that is being leased and it is essential to the farming operation.**

**B Lease of Custodial Property**

If FSA cannot acquire title to custodial property in a timely manner, the authorized agency official may lease the property upon concurrence from the National Office.

**745-775 (Reserved)**



**904 Property ID Numbers**

**A Assigning Property ID Numbers**

Inventory property ID numbers cannot be duplicated. FSA should use the State and county codes along with 5 additional digits. The last 5 digits must be consecutively numbered within the range of 00001-00499.

Since the property ID numbers include the State and county codes, the same last 5 digits in the number can be used by all counties within the State.

**B FIPS Code Clarification**

\*--The State and county codes are the non-FIPS numbers used for all NFAOC purposes, not--\*  
the FIPS State and county codes used in former ASCS coding.

**905 ADPS 3E Transactions****A Processing ADPS 3E Transaction for Acquisitions**

The ADPS 3E transaction for acquiring property is a combined transaction that affects both a borrower's FSA and RD account. Therefore, anytime property is acquired by FSA or RD \*--from a borrower that has an FSA and RD loan, NFAOC, DLD must process the ADPS--\* 3E transaction. This is the case even if the property is not cross-collateralized. Under no circumstances can a property be acquired jointly.

**B Acquiring Agency Action**

When property is acquired by FSA or RD from a borrower who has both an FSA and RD loan, the acquiring agency shall:

- determine agencies' proportionate share using Exhibit 79 only if the 2 agencies share the lien position

**Note:** The lien position is shared by both FSA and RD when the FSA 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.

- complete Exhibit 80
- \*--FAX a copy of Exhibit 79, if applicable, and Exhibit 80 to NFAOC, DLD at--\* 314-457-4478.

**Note:** If the security is cross-collateralized, a copy of Exhibits 79 and 80 shall also be sent to the nonacquiring agency.

**906-949 (Reserved)**

**Part 24 (Withdrawn--Amend. 34)**

**950-955 (Withdrawn--Amend. 34)**

**956 (Withdrawn--Amend. 30)**

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

This table lists all required reports in this handbook.

Reports Control Number	Title	Reporting Period	Submission Date	Negative Reports	Reference
	Statute of Limitations	Quarterly	5th of each month	No	126

Forms

This table lists the forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification		81
FSA-137	Address Information Request		67, 386
FSA-2001	Request for Direct Loan Assistance		81, 344
FSA-2002	Three-Year Financial History		81
FSA-2003	Three-Year Production History		81
FSA-2025	Notice of Approval, Terms and Conditions and Borrower Responsibilities		346
FSA-2026	Promissory Note		Text
FSA-2027	Supplemental Payment Agreement		161
FSA-2029	Mortgage/Deed of Trust		Text
FSA-2037	Farm Business Plan Worksheet Balance Sheet		81
FSA-2038	Farm Business Plan Worksheet Projected/Actual Income and Expenses		81
FSA-2040	Agreement and Record of the Disposition of FSA Security/Release of Proceeds		464, 465, 581, 582
FSA-2060	Application for Partial Release, Subordination, or Consent		462, 463
FSA-2070	Bill of Sale		516, 517, 519
FSA-2080	Release From Personal Liability		84
FSA-2489	Assumption Agreement		Text
FSA-2501	Addendum to the Promissory Note or Assumption Agreement for the Disaster Set-Aside Program		44-46, 48

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2510	Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due		3, 67, 83, 85, 405, 702
FSA-2511	Borrower Response to Notice of the Availability of Loan Servicing		81, 405, 702
FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less Than 90 Days Past Due		3, 67, 85, 102
FSA-2513	Borrower Response to Notice of the Availability of Loan Servicing		81
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who Are in Non-Monetary Default		3, 67, 83, 85, 444, 702
FSA-2515	Borrower Response to Notice of the Availability of Loan Servicing for Borrowers Who Received Form FSA-2514		81, 444, 702
FSA-2516	30 Day Reminder of the Notice of Availability of Loan Servicing		83
FSA-2517	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116
FSA-2518	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116
FSA-2519	Offer of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2520	Acceptance of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116
FSA-2521	Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322
FSA-2522	Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Applied for Servicing		116, 229, 322

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

## Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2523	Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116, 229, 322
FSA-2524	Borrower Response to Denial of Primary Loan Servicing for Borrowers Who Received Form FSA-2512 and Applied for Servicing		116, 229, 322
FSA-2525	Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing		85
FSA-2526	Borrower Response to and Intent to Accelerate for Borrowers Who Received Form FSA-2510 or FSA-2514 and Did Not Apply for Servicing or Did Not Accept Servicing		85
FSA-2529	Negotiated Appraisal Agreement		230
FSA-2535	Conservation Contract		Text
FSA-2537	Notification of Consideration for Homestead Protection		281
FSA-2538	Response to Notification of Consideration for Homestead Protection for Borrowers Who Received FSA-2537		281
FSA-2539	Homestead Protection Program Agreement		283, 284
FSA-2540	Notice of the Availability of Homestead Protection – Post Acquisition		281, 568
FSA-2543	Shared Appreciation Agreement		Text
FSA-2544	Shared Appreciation Agreement Recapture Appraisal Notice		343, 344
FSA-2545	Borrower Notification of Shared Appreciation		344
FSA-2547	Shared Appreciation Agreement Recapture Reamortization		67
FSA-2548	Shared Appreciation Agreement Recapture Reamortization 2nd Notice		67
FSA-2550	Report of Problem Case		421, 533
FSA-2551	Request for Nonmonetary Default Determination		66, 421
FSA-2560	Request for Statement of Account		536

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

## Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2561	Statement of Account		536
FSA-2562	Borrower Account Description Flag		67, 248, 401, 421, 534, 567, Ex. 11
FSA-2569	Warranty Deed		408, 496-499
FSA-2570	Offer to Convey Security		284, 496, 497, 499, 500, 516, 517
FSA-2571	Agreement for Voluntary Liquidation of Chattel Security		464, 465, 516, 518, 581
FSA-2572	Agreement of Secured Parties to Sale of Security Property		581
FSA-2574	Confirmation Reorganization Plan Worksheet		404, 406
FSA-2576	Notice of Judgment		551, 567, 568, 582, 604
FSA-2580	Primary and Preservation Loan Servicing Checklist		67, 533
FSA-2581	Inequitable Treatment Review Data		533
FSA-2585	Acquisition or Abandonment of Secured Property		708, Ex. 66
FSA-2587	Advice of Property Acquired		568, 743
FSA-2588	Acquired Property Maintenance		568
FSA-2591	Lease of Real Property		281, 284, 568, 743
FSA-2592	Invitation, Bid and Acceptance Sale of Real Property by the United States		776, 778, 782
FSA-2593	Standard Sales Contract Sale of Real Property by the United States		778
FSA-2594	Advice of Inventory Property Sold		778
FSA-2595	Quitclaim Deed		778
FSA-2596	Bill of Sale "A" (Sale of Government Property)		780
FSA-2597	Farmer Programs Noncash Credit for Purchase of Easement Rights		197
FSA-2716	Notice Advising of Potential Referral to Treasury for Cross-Servicing and the Availability of Debt Settlement		Ex. 48
FSA-2717	Notice Advising of Potential Referral to Treasury for Cross-Servicing		Ex. 48
FSA-2731	Cancellation of Debt Without Application		406, 407, 409

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

Forms (Continued)

Number	Title	Display Reference	Reference
IRS Form 1099-C	Cancellation of Debt		409
NRCS-CPA-026 NRCS-CPA-026E	Highly Erodible Land and Wetland Conservation Determination		81, 801
RD 1956-1	Application for Settlement of Indebtedness		Text

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
CONACT	Consolidated Farm and Rural Development Act	1, 193, 537, Ex. 2
DEF	Deferral	248, Ex. 11
DLD	Direct Loan Division	Text, Ex. 80
eDALR\$	electronic Debt and Loan Restructuring System	Text, Ex. 17
FAP	Foreclosure Action Pending	567, Ex. 11
FLMAC	Farm Land Market Advisory Committee	Ex. 17
HML	high, medium, low	901
ISA	installment set-aside	46, 48, 131
ITLAP	Indian Tribal Land Acquisition Program	2, 537
LR	limited resource	132, 146
NFAOC	National Financial and Accounting Operations Center	Text, Ex. 11, 80
NP	nonprogram loan	Text
NRBRA	Net Recovery Buyout Recapture Agreement	321, 361, 363, 365
NRV	net recovery value	102, 321
PRD	Program Reporting Division	708
RH	rural housing	Ex. 79

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

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
SA	shared appreciation loan	66, 67, 102, 145, 146, 191, 346
SAA	shared appreciation agreement  <b>Note:</b> When reference is made to a signed agreement as a condition of receiving debt writedown.	197, 249, 343, 344, 346, 403, Ex. 2, 4, 25, 26
SAA	subject to approved adjustment  <b>Note:</b> When reference is made to the financial “flag”/designation for an account where FSA has approved a borrower’s debt settlement offer as documented on RD 1956-1.	172, 249, 343, 404, 406, Ex. 11
SCRRG	State Civil Rights Review Group	533
SEC	State Environmental Coordinator	802, 821, 837, 839
SI	Security Instrument	344, 346
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

Delegations of Authority

None.



## Definitions of Terms Used in This Handbook

### Abandoned Security Property

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

### Acceleration

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

### Accrued Deferred Interest

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

### Active Borrower

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

### Additional Security

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

### Adjustment

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

\* \* \*

### Adversary Proceeding

An adversary proceeding is a lawsuit within a bankruptcy case.

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

**Agency**

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

**Agency Official**

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

**Applicant**

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

**Approval Official**

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

**Assistance**

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

**Assumption**

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

**Auction**

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

**Authorized Agency Official**

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

**Automatic Stay**

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

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

CONACT or CONACT property is property that secures a loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 USC 1921 et seq.). It also includes property that secures other FLP loans.

**Confirmed Plan of Reorganization**

A confirmed plan of reorganization involves a bankruptcy court approved plan, which outlines the debtor's security interest, repayment schedules and terms of performance.

**Conservation Contract**

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding Agency debt.

**Conservation Contract Review Team**

Conservation Contract review team is comprised by the appropriate offices of FSA, the Natural Resources Conservation Service, U.S. Fish and Wildlife Service, State Fish and Wildlife Agencies, Conservation Districts, National Park Service, Forest Service, State Historic Preservation Officer, State Conservation Agencies, State Environmental Protection Agency, State Natural Resource Agencies, adjacent public landowner, and any other entity that may have an interest and qualifies to be a management authority for a proposed conservation contract.

**Consolidation**

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

**Conveyance**

Conveyance is the transfer of ownership in property to a third party.

**Credit Sale**

Credit sale is a sale of FLP inventory property for which FSA provides financing to the purchaser.

## Definitions of Terms Used in This Handbook (Continued)

**Criminal Action**

**Criminal action** is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes. Such violations may include, but are not limited to unauthorized sale of security; purchase of security with intent to defraud and without payment of the purchase price to the Agency; falsification of assets or liabilities in loan applications; application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose; using funds for an unauthorized purpose and then making false statements regarding their use; by scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized disposition of security or other illegal actions; or any other false statements or representations relating to Agency benefits.

\* \* \*

**Current Market Value Buyout**

**Current market value buyout** is the termination of a borrower's loan obligations to the Agency in exchange for payment of the current appraised value of the borrower's security property and nonessential assets, less any prior liens.

**Custodial Property**

**Custodial property** is property and improvements owned by a borrower that serve as security for an Agency loan that the borrower has abandoned, and that the Agency takes into its control to protect the Government's interest.

**Debt Forgiveness**

**Debt forgiveness** is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.

(1) Debt forgiveness may be through:

- (i) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;
- (ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or
- (iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.

**Account Description Flag and Code Reference**

**A General Information**

This exhibit provides guidance on using account description flags and paragraph references for each flag.

**B Agency Official Responsibilities**

Agency officials shall review the RC 540 Report monthly to determine whether a servicing action is needed and if accounts are appropriately flagged or coded. Particular attention should be given to flagged accounts since the payment status cannot always be reported correctly for reasons such as payments being held in suspense or transactions not being processed.

**C Establishing and Removing Flags**

To establish an account flag, FSA-2562 will be completed and a 5G transaction will be processed in DLS through the Manage Flags function under Customer Management. To remove an account flag, FSA-2562 will be completed and a 5H transaction will be processed in DLS.

**D Flag Priority and Reference Table**

A maximum of 4 flags can be recorded in the accounting system for each borrower subject to certain limitations. However, only 3 flags will be reported on the RC 540 Report. Flags will be reported based on priority as indicated in this table.

<b>Display Priority</b>	<b>Flag</b>	<b>Description</b>	<b>Reference</b>
1	OAC1	Office of Adjudication and Compliance Accepted	1-FLP, Paragraph 41
2	CAP	Court Action Pending	Paragraph 421
3	TPJ	*--Third Party Judgment (NFAOC Only)--*	Paragraph 421
4	BAP	Bankruptcy Action Pending	Paragraph 401
5	51-S	Primary Loan Servicing	Paragraph 67
6	DSA	Debt Set-Aside	Historical Code
7	DEF	Deferral (FSA-2562 process in DLS)	Paragraph 248
8	FAP	Foreclosure Action Pending	Paragraph 567
9	SAA	*--Subject to Approved Adjustment (NFAOC--* Only)	Paragraph 404
10	OAC7	Office of Adjudication and Compliance Resolved	1-FLP, Paragraph 41
11	ACL	Accelerated	Paragraph 534



**\*--Notice of Acceleration of Farm Loan Programs Accounts That Are Unsecured**

**Note:** Exhibit 48 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “5-FLP Exhibit 48”.

5-FLP, Exhibit 48

This Exhibit may only be revised by SED with concurrence of OGC.

(Use Agency Letterhead format with local return address.)

**NOTICE OF ACCELERATION OF FARM LOAN PROGRAMS  
ACCOUNTS THAT ARE UNSECURED**

CERTIFIED MAIL

[Date]

(Borrower)  
(Co-Borrower)  
(Address)  
City, State Zip code

**Subject: NOTICE OF ACCELERATION OF YOUR DEBT TO THE FARM SERVICE AGENCY  
AND DEMAND FOR PAYMENT OF THAT DEBT**

Dear :

PLEASE NOTE that the entire indebtedness due on the promissory notes and/or assumption agreements which evidence the loans received by you from the United States of America, acting through the Farm Service Agency, United States Department of Agriculture is now declared immediately due and payable. They are described as follows:

Debt Instrument	Date of Instrument	Original Amount
-----------------	--------------------	-----------------

The promissory notes or assumption agreements are unsecured.

This acceleration of your indebtedness is made in accordance with the authority granted in the above-described instruments.

The reasons for the acceleration of your indebtedness are as follows:

The indebtedness due is \$\_\_\_\_\_ unpaid principal, and \$\_\_\_\_\_ unpaid interest, as of \_\_\_\_\_, plus additional interest accruing at the rate of \$\_\_\_\_\_ per day thereafter, plus any advances made by the United States for the protection of its security and interest accruing on any such advances and any shared appreciation.

--\*

\*--Notice of Acceleration of Farm Loan Programs Accounts That Are Unsecured (Continued)

5-FLP, Exhibit 48

If your account is referred to the Department of Justice for other collection activity, such as a deficiency judgment or enforcing a judgment lien, attorney's fees may be added to your debt as well as a Department of Justice fee of 3 percent.

See attached FSA-2716 and FSA-2727 for your options.

YOU DO NOT HAVE ANY RIGHT TO APPEAL THIS DECISION TO ACCELERATE YOUR FSA DEBTS.

*UNITED STATES OF AMERICA*

*BY:* \_\_\_\_\_  
District Director  
Farm Service Agency  
United States Department of Agriculture

Notice to Customers Presenting Checks

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. For inquires, please contact your local office.

Privacy Act – A privacy Act Statement required by 5.U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available from our internet site at (<http://www.fms.treas.gov/otcnet/index.html>), or call toll free at (1-866-945-7920) to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

--\*



**ADPS 3E Transaction Guide**

Complete the following for all acquisitions when the borrower has both an FSA and RD loan. Do **not** process an ADPS 3E transaction. Complete 1 for each property acquired.

\*--

To: ATTENTION: \_\_\_\_\_  
NFAOC, DLD FAX: 314-457-4478

From: \_\_\_\_\_  
Name of Preparer, Agency, and Telephone Number

Subject: Acquisition – Borrower with FSA and RD Loans

1. Acquiring Agency Name (FSA or RD): \_\_\_\_\_
2. Case Number: \_\_\_\_\_
3. Name of Borrower: \_\_\_\_\_
4. OK Code: (Leave Blank)
5. Date Acquired: \_\_\_\_\_
6. Most Secured FLP Loan: \_\_\_\_\_
7. Most Secured RD Loan: \_\_\_\_\_
8. Property ID of Acquiring Agency: \_\_\_\_\_
9. Property Description Code: \_\_\_\_\_
10. Property Suitability Code: \_\_\_\_\_
11. Taxpayer ID: \_\_\_\_\_
12. Property Address: (Leave blank if acquired property is chattels.)  
\_\_\_\_\_  
\_\_\_\_\_

Street

City, State, ZIP

13. Acres Acquired: Cropland \_\_\_\_\_ Pasture \_\_\_\_\_ Woodland \_\_\_\_\_ Other \_\_\_\_\_

14. Market Value – Acquisition: \$ \_\_\_\_\_

15. Date Last Appraisal: \_\_\_\_\_

16. Amount Credited – FSA \$ \_\_\_\_\_ RD \$ \_\_\_\_\_ Total \$ \_\_\_\_\_

17. Date Submitted: \_\_\_\_\_

18. Business Code: \_\_\_\_\_

19. How Acquired: \_\_\_\_\_

20. Farm Code: \_\_\_\_\_

21. Card Code: (Leave Blank)

22. Loans to Acquire:

(Enter Fund Code and Loan Number. Leave blank if all FSA and RD loans are to be acquired.)

FSA \_\_\_\_\_

RD \_\_\_\_\_

--\*

