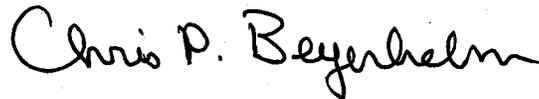


UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

| | |
|--|---------------------|
| Regular Direct Loan Servicing 4-FLP | Amendment 15 |
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Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 100 B has been amended to require Exhibit 28.5 be sent and SED concurrence obtained before notifying borrowers of nonmonetary default.

Subparagraph 100 C has been amended to require a “Lack of Good Faith” determination be made by a State’s OGC for loan servicing to be denied.

Exhibit 28.5 has been added to provide the borrower with an opportunity to correct or provide evidence to resolve a potential nonmonetary default.

| Page Control Chart | | |
|---------------------------|-------------|-------------------------------------|
| TC | Text | Exhibit |
| 5 | 6-13, 6-14 | 1, pages 1, 2 28.5, page 1 (add) |

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99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

I Allotments Leases

[7 CFR 765.252 (e)] (1) The Agency will not approve any crop allotment lease that will adversely affect its security interest in the allotment.

(2) The borrower must assign all rental proceeds from an allotment lease to the Agency.

J Lease Proceeds

[7 CFR 765.252 (d)] Lease proceeds are considered normal income security and may be used in accordance with § 765.303 (paragraph 163).

100 Borrower Noncompliance With Loan Agreements**A Documenting Noncompliance**

To be eligible for any kind of FSA loan servicing options, the borrower must be in compliance with loan agreements. The authorized agency official will fully document a borrower's noncompliance (such as the failure to report using security proceeds) in the borrower's case file. Documentation must include, but is not limited to:

- type, nature, circumstances, and reasons for noncompliance
- any actions taken by the borrower to correct the noncompliance.

According to paragraph 99, FSA may deny loan servicing actions to a borrower who has a significant noncompliance history, even if the borrower later resolved the issues.

B Borrower's Noncompliance Notification

Borrowers in noncompliance will be given the opportunity to correct the matter whenever *--possible. The borrower will be contacted and provided the opportunity to explain the potential noncompliance using Exhibit 28.5. Any response received from the borrower will be documented in the case file and any materials will be included in the case file. The authorized agency official will review the borrower's response and determine if the potential noncompliance has been satisfactorily resolved. If the issue is resolved, the case file will be documented and no further action will be taken.

If the authorized agency official determines that the potential noncompliance has not been resolved, the account will be referred to SED for concurrence. FSA-2551 will be prepared by the local office and must include all pertinent information, evidence, and any responses provided by the borrower about the potential noncompliance. FSA-2551 and all documentation will be forwarded to SED for concurrence of nonmonetary default determination according to 5-FLP, paragraph 66 and notification according to 5-FLP, subparagraph 67 A. SED concurrence is also required before any civil action or criminal action is considered according to 5-FLP, Part 11.

C Lack of Good Faith

If loan servicing is to be denied based on "lack of good faith", a determination must be made by OGC as explained in detail on FSA-2551. OGC only needs to concur with nonmonetary defaults that involve "lack of good faith". FSA-2551 will be prepared by the local office and must include all pertinent information, evidence, and any responses provided by the borrower. FSA-2551 and all documentation will be forwarded to SED for concurrence and submission to OGC.--*

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists all forms referenced in this handbook.

| Form Number | Title | Display Reference | Paragraph Reference |
|-------------|---|-------------------|------------------------|
| AD-1026 | Highly Erodible Land Conservation and Wetland Conservation Certification | | 116 |
| CCC-679 | Lien Waiver | | 118 |
| FSA-1956-22 | Update to TOP and Cross-Servicing Information | | 282 |
| FSA-2001 | Request for Direct Loan Assistance | | 116, 126 |
| FSA-2025 | Notification of Approval Terms and Conditions and Borrower Responsibilities | | 247-249 |
| FSA-2026 | Promissory Note | | 3, 247, Ex. 2, 20 |
| FSA-2028 | Security Agreement | | Text, Ex. 2, 4 |
| FSA-2029 | Mortgage/Deed of Trust | | 3 |
| FSA-2037 | Farm Business Plan – Balance Sheet | | 116 |
| FSA-2038 | Farm Business Plan – Income and Expenses | | 116 |
| FSA-2040 | Agreement for the Use of Proceeds/Release of Chattel Security | | 61, 162, 166, 181, 212 |
| FSA-2044 | Assignment of Income | | 281 |
| FSA-2060 | Application for Partial Release, Subordination, or Consent | | Text |
| FSA-2065 | Annual Statement of Loan Account | | 64, Ex. 25.5 |
| FSA-2072 | Cancellation of U.S. Treasury Check and/or Obligation | | 61 |
| FSA-2080 | Release From Personal Liability | | 231, 247, 251 |

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

Forms (Continued)

| Form Number | Title | Display Reference | Paragraph Reference |
|---------------|--|-------------------|---------------------|
| FSA-2425 | Request to Cancel Undisbursed Loan Funds | | 61 |
| FSA-2429 | Request for Change in Application | | 61 |
| FSA-2433 | Satisfaction of Lien | | 65 |
| FSA-2434 | Consent and Release of Interest of United States | | 65 |
| FSA-2445 | Control Log PLAS/GLAS Account Corrections | | 97 |
| FSA-2446 | PLAS/GLAS Account Correction | | 97 |
| FSA-2450 | Temporary Amendment of Consent to Payment of Proceeds From Sale of Farm Proceeds | | 162 |
| FSA-2455 | Subordination by the Government | | 120 |
| FSA-2465 | Assignment, Acceptance, and Release (Wool and Mohair) | | 166 |
| FSA-2470 | Partial Release | | 166, 212 |
| FSA-2476 | Transfer of Real Estate Security | | 247 |
| FSA-2489 | Assumption Agreement | | 247 |
| FSA-2490 | Deceased Borrower Report | | 266 |
| FSA-2495 | Application to Move Security Property | | 291 |
| FSA-2543 | Shared Appreciation Agreement | | 3, 97, 267 |
| FSA-2551 | Request for Nonmonetary Default Determination | | 100 |
| FSA-2585 | Acquisition or Abandonment of Secured Property | | Ex. 25.5 |
| IRS 1098 | Mortgage Interest Statement | | Ex. 25.5 |
| IRS 1099-A | Acquisition or Abandonment of Secured Property | | Ex. 25.5 |
| IRS 1099-C | Cancellation of Debt | | Ex. 25.5 |
| IRS 1099-G | Certain Government Payments | | Ex. 25.5 |
| IRS 1099-INT | Interest Income | | Ex. 25.5 |
| IRS 1099-MISC | Miscellaneous Income | | Ex. 25.5 |
| UCC1 | National Financing Statement | | 247, 291, Ex. 2 |

***--Notification of Potential Nonmonetary Default**

Upon noting an apparent nonmonetary default other than conversion, FSA will notify the borrower using the following before beginning the Primary Loan Servicing process. Go to <http://fsaintranet.sc.egov.usda.gov/dam/ffasforms/forms.html>, CLICK “Find Current Forms Using Our Form Number Search” in “Form Number”, ENTER “4-FLP Exhibit 28.5”, and CLICK “Submit”.

4-FLP, Exhibit 28.5

(Use Agency Letterhead format with local return address.)

NOTIFICATION OF POTENTIAL NON-MONETARY DEFAULT

Dear:

Upon a review of your Farm Loan Programs (FLP) account, it appears that you may be in non-monetary default on your FLP loan(s). This reason that you may be in default is that:

(Provide a detailed description of the reasons that the account may be in non-monetary default)

We have made you an appointment on _____ to discuss this issue. If you are unable to come to the office on this date, we can discuss the issue by phone. If you believe the information we have provided above is not correct, or if you have additional information the agency should consider, please provide all information you have addressing the reason you are not in non-monetary default to this office at the meeting or contact the office by phone. If you do not respond, or if our review of the information you submit still indicates that you are in non-monetary default, we will send you the forms you need to file a primary loan servicing application. The forms to file a primary loan servicing application will provide you with appeal rights.

Please contact this office if you have any questions about this letter.

Sincerely,

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