

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

<b>Regular Direct Loan Servicing 4-FLP</b>	<b>Amendment 23</b>
--	---------------------

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



**Amendment Transmittal**

**A Reason for Amendment**

Subparagraph 99 G has been amended to clarify when real estate appraisals were required to have a security interest in minerals.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	6-11, 6-12	



## 99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

## D Conditions for FSA Consent to Borrower Ceasing to Operate (Continued)

**\*--(d) Any one of the following conditions is met:--\***

**(i) The borrower is involved in the day-to-day operational activities, management decisions, costs and returns of the farming operation, and will continue to reside in the immediate farming community for reasonable management and operation involvement;**

**(ii) The borrower's failure to operate the security is due to age or poor health, and the borrower continues to reside in the immediate farming community for reasonable management and operation involvement; or**

**(iii) The borrower's failure to operate the security is beyond the borrower's control, and the borrower will resume the farming operation within 3 years.**

**\*--E Real Estate Surface Leases**

**[7 CFR 765.252(a)] The borrower must request prior approval to lease the surface of real estate security. The Agency will approve requests provided the following conditions are met:**

**(1) The lease will not adversely affect the Agency's security interest;**

**(2) The term of consecutive leases for agricultural purposes does not exceed 3 years, or 5 years if the borrower and the lessee are related by blood or marriage. Or**

**The term of surface leases for farm property no longer in use, such as old barns, or for nonfarm purposes, such as wind turbines, communication towers, or similar installations can be for any term;**

**Note:** Surface leases of farm property no longer in use or nonfarm purposes must be approved by the SED.--\*

**(3) The lease does not contain an option to purchase; and**

**\*--(4) The lease does not hinder the future operation or success of the farm, or, if the borrower has ceased to operate the farm, the requirements specified in § 765.253 are met (subparagraph D); and**

**(5) The lease and any contracts or agreements in connection with the lease must be reviewed and approved by the Government.--\***

**99 Borrower Responsibilities for Complying With Loan Instruments (Continued)****F Conditions for Continuation**

Consent for a borrower's request or action to cease operating the security or lease the property shall be considered by DD's according to this paragraph.

If FSA cannot give the borrower consent to cease operating or lease the real estate security, FSA will immediately notify the borrower of nonmonetary default according to 5-FLP, paragraph 66.

**G Mineral Leases**

**[7 CFR 765.252 (b)] The borrower must request Agency consent to lease any mineral rights used as security for Agency loans.**

**\*--(1) For FO loans made from December 23, 1985, to February 7, 2014, and loans other than FO loans secured by real estate and made from December 23, 1985, to November 1, 2013, the value of the mineral rights must have been included in the--\* original appraisal in order for the Agency to obtain a security interest in any oil, gas, and other mineral associated with the real estate security.**

**(2) For all other loans not covered by paragraph (b)(1) of this section (subparagraph 99 G), the Agency will obtain a security interest in any oil, gas, and other mineral on or under the real estate pledged as collateral in accordance with the applicable security agreement, regardless of whether such minerals were included in the original appraisal.**

**(3) The Agency may consent to a mineral lease if the proposed use of the leased rights will not adversely affect either:**

**(i) The Agency's security interest; or**

**(ii) Compliance with any applicable environmental requirements of subpart G of 7 CFR part 1940.**

**(4) The term of the mineral lease is not limited.**

**H Chattel Security Leases**

**[7 CFR 765.252 (c)] Lease of chattel security is not authorized.**

FSA immediately notifies the borrower of nonmonetary default according to 5-FLP, paragraph 66.