

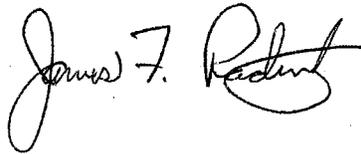
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 31

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 C has been amended to reference 1-FLP, subparagraph 2 C.

Subparagraphs 3 A, 66 A, and 421 B and D have been amended for clarification.

Subparagraph 3 E has been amended to clarify when States may modify national forms.

Subparagraph 3 F has been amended to address online availability of State-created forms.

Subparagraph 421 C has been amended to streamline the referral of conversion, fraud, or waste to the State Office.

Exhibit 4 has been amended to update the reference from subparagraph 421 D to 421 C.

Exhibit 17 has been amended to update administrative liquidation costs and property management costs for FY 2015.

Exhibit 34, page 3, asterisk has been amended to reference paragraph 401 to eliminate confusion.

Page Control Chart		
TC	Text	Exhibit
	1-3 through 1-6 3-1, 3-2 11-31 through 11-50	4, pages 1, 2 17, pages 37, 38 pages 41, 42 34, pages 1,2 page 3

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://intra3.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://intra3.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.

IF the form pertains to...	THEN the form number shall be...
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.

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 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

Part 3 Loan Servicing – General Procedures

Section 1 Notifying Borrowers of Loan Servicing

66 Borrower Notification

A General Requirements

[7 CFR 766.101(a)] The Agency will provide servicing information under this section to borrowers who:

[7 CFR 766.101(a)] (1) Have a current farm operating plan that demonstrates the borrower is financially distressed;

[7 CFR 766.101(a)] (2) Are 90 days or more past due on loan payments, even if the borrower has submitted an application for loan servicing as a financially distressed borrower;

The authorized agency official must provide a loan servicing notification package to a borrower before initiating liquidation, accelerating borrower loan accounts, or repossessing or foreclosing FSA security, unless the borrower was previously notified as 90 calendar days past due or nonmonetary default and is already being serviced according to this part.

Example: A borrower misses his January 1, 2006, payment and is properly notified when he becomes 90 calendar days past due. Processing is then delayed and while FSA continues Primary Loan Servicing (PLS) he makes the January 1, 2006, payment on January 15, 2007. At this point, he is less than 90 calendar days past due; however, since the delinquency was not cured at any point, FSA continues to process PLS. He is not renotified.

If a loan is past due, the far left-hand column of the 540 Report shows the number of days that the loan is past due. The code “PDD” (Past Due Days) is shown beside the number.

--The 540 Report should be printed and reviewed immediately by the authorized agency official once it becomes available. Both the “Borrowers with Loans 90 Days Past Due”-- and the “Borrowers with Loans Less Than 90 Days Past Due” should be reviewed to find all accounts that will need to be notified of primary loan servicing in the coming month.

The borrower will be notified within 15 calendar days of becoming 90 calendar days past due.

66 Borrower Notification (Continued)**A General Requirements (Continued)*****--[7 CFR 766.101(a)] (3) Are in non-monetary default on any loan agreements;**

For further information about compliance with loan agreements, see 4-FLP, Part 6.

The borrower's noncompliance must be determined according to 4-FLP, subparagraph 100 before being provided with Primary Loan Servicing notifications.--*

[7 CFR 766.101(a)] (4) Have filed bankruptcy;

When FSA learns that a borrower has filed for bankruptcy, FSA will service the borrower's account according to Part 11.

[7 CFR 766.101(a)] (5) Request this information;

The authorized agency official will record a borrower's request for a loan servicing notification package in the borrower's running record or place the written request in the borrower's file.

[7 CFR 766.101(a)] (6) Request voluntary conveyance of security;

The authorized agency official will send a loan servicing notification package to a borrower requesting full liquidation by voluntary conveyance, unless the borrower was previously notified and is already being serviced according to this part.

[7 CFR 766.101(a)] (7) Have only delinquent SA; or

FSA will notify delinquent NP borrowers who have only SA amortization agreements.

[7 CFR 766.101(a)] (8) Are subject to any other collection action, except when such action is a result of failure to graduate. Borrowers who fail to graduate when required and are able to do so, will be accelerated without providing notification of loan servicing options.

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 FLOO 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 FLOO attached to a 5H transmittal letter.

Note: Only FLOO 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.

422-430 (Reserved)

State Supplements

The following table lists required State supplements.

Subparagraph	Required State Supplement
3 C	Guidance on Notary Acknowledgement
3 D	Guidance on Signature Requirements
3 F	Using State-Specific and State-Created Forms
104 A	Obtaining PLS Appraisals
196 B	Filing of Conservation Contracts
229 B	State-Certified Mediation Requirements
247 B	Closing Reamortized Loans
302 A	Homestead Protection According to State Laws
343 B	Real Estate Appraisals for Determination of SAA Recapture
345 C	Satisfying Shared Appreciation Agreements (SAA) According to State Laws
346 E	Maintaining Lien Position When Amortizing SAA Recapture
401 E	State Policies and Procedures for Bankruptcy
402 F	Reaffirmation of Debt
--421 C--	State Policies and Procedures for Civil and Criminal Actions
443 C	Managing the Liquidation Process
462 B	Title Searches
464 B	Lien Searches
498 A	Convergence of Rights With Real Property
531 A	Loan Acceleration
533 A	Case File Preparation for Acceleration
533 E	Determination of Property Value Prior to Acceleration
534 E	Notification of Prior Lienholders After Acceleration
535 C	Partial Payments After Acceleration
551 A	General Involuntary Liquidation
566 D	Real Property Foreclosures
567 C	Bidding at Foreclosure Sales
568 A	Acquisition of Inventory Property
568 E	Addressing Outstanding Loan Balances After Real Estate Foreclosure
551 D	Calculating Amount To Be Reported to DOJ
601 A	Third-Party Foreclosures
601 C	Contract Forfeiture
602 A	Prior Lienholder Liquidation
604 E	Redemption Rights

State Supplements (Continued)

Subparagraph	Required State Supplement
705 C	Custodial Property
707 F	Removal of Abandoned Vehicles From Inventory Property
724 A	Taxes on Inventory Real Property
776 D	Advertisement of Inventory Property for Sale
776 F	Contracting With Real Estate Brokers to Sell Inventory Property
778 E	Sale of Inventory Property
Exhibit 17, *--subparagraph 5 F--*	<ul style="list-style-type: none"> • Estimated Cost and Average Holding Period • Factors to Use When Adjusting Market Value. <p>Note: State supplement is issued after cost-analysis has been completed, but no later than November 30 each year.</p>

***--Instructions for Using eDALR\$ (Continued)**

4 eDALR\$ Formulas (Continued)

J Debt Writedown and Buyout Limitation

eDALR\$ attempts to develop a feasible plan with a 10 percent debt service margin. All program loan servicing, excluding writedown, is considered before reducing the debt service margin. eDALR\$ will consider writedown only if all of the following conditions are met.

- The borrowers have not received the lifetime limitation for writedown or writeoff with buyout.
- At least 1 program loan is delinquent.
- The debt service margin is at zero percent.

If a feasible plan is found with writedown, eDALR\$ determines the amount of writedown necessary for the borrower to have a positive cash flow.

- If the amount of the writedown is less than or equal to \$300,000, a feasible plan has been found.
- If the amount of writedown is greater than \$300,000 and the debt service margin equals 1.00, or a feasible plan cannot be developed, eDALR\$ determines the amount of--* writeoff, with buyout at the current market value.
- If the amount of writeoff, with buyout at the current market value, is less than or equal to \$300,000, the borrower is offered buyout.
- If the amount of writeoff, with buyout at the current market value, is greater than \$300,000, the borrower is not eligible for loan servicing or buyout and the borrower is offered debt settlement.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data

A Administrative Liquidation Costs

The administrative liquidation costs for each loan type are provided in the following table.

Loan Type	Calculation	Cost
OL	*--(3063 ÷ 60 = 51.05) X \$24.31 =	\$1,241
FO/SW/CL	(3063 ÷ 60 = 51.05) X \$24.31 =	\$1,241
EM/EE	(3063 ÷ 60 = 51.05) X \$24.31 =	\$1,241
RH (Used for RHF loans only.)	(3063 ÷ 60 = 51.05) X \$24.31 =	\$1,241--*

Note: Costs were calculated using the most recently available Delphi study for the average number of hours spent on a liquidation activity by FSA employees, and used the *--2014 GS-11/1 hourly pay rate. The Delphi study is a nationwide survey and--* forecasting tool that records averages of times and actions on FSA accounts.

B Legal Liquidation Costs

Legal liquidation costs will be determined for real estate and chattel foreclosures, as well as chattel-only foreclosures. These costs estimate liquidation costs for Government attorney time for foreclosure cases in both judicial and nonjudicial foreclosure States and will vary by State. Legal liquidation cost estimates should be determined based on the costs that have been incurred during past liquidations in that State. U.S. Attorney Office costs should only be included in States where judicial foreclosures are required.

C Determining Chattel Costs

Chattel costs are determined based on the following:

- “Months Held in Inventory” - FSA rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless the Administrator approves chattel acquisitions and determines that chattels do have a holding period.

Note: If significant acquisitions occur and a chattel holding period becomes necessary, States will contact the National Office for guidance and provide detailed information about the acquisition and planned disposal of the chattel property.

- “Sales Commission Rate” - Authorized agency official will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.
- “Other Sales Costs” - These are miscellaneous costs typically incurred when selling acquired chattels. County Offices should request State Office guidance in unusual cases.
- “Rate of Change in Value” - This is a yearly percentage decrease or increase in the value of the property. The normal rate of change in value for chattels will be zero as FSA rarely acquires chattel property.

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

F State Supplement

SED's will issue a state supplement to:

- address the estimated costs and average holding period to be used in making calculations of net recovery value
- provide the factors to use in adjusting market value.

Note: The State supplement shall be issued after completing the cost analysis, but no
*--later than 60 calendar days after the updates to administrative liquidation costs
have been issued.--*

Instructions for Using eDALR\$ (Continued)

5 Periodic Data (Continued)

G Determining Property Management Costs

Property Management Cost is the administrative cost of managing a property while the property is being held in FSA inventory. The cost will be deducted in cases involving real property. The following worksheet is used to calculate the property management costs. Delphi data standards are used and average actions per month per the national average from the Delphi Study for required actions per property are also put into the formula. Complete the worksheet by using the average holding period of inventory property determined according to subparagraph C. An example has been completed based on national average data with an average holding period of 5.5 months.

Determining Property Management Costs

Step	Action
1	(<u> .215 </u> X <u> 5.5 </u> = <u> 1.1825 </u>) Average Actions Per Property/Month Average Holding Period
2	(<u> 180 </u> ÷ <u> 60 </u> = <u> 3 </u>) Delphi Data for Real Estate Loans
--3	(<u> 1.1825 </u> X <u> 3 </u> X <u> 24.31 </u> = <u> 86.24 </u>)-- Amount from Step 1 Amount from Step 2 2014 GS 11/1 Hourly Pay
4	(<u> 648 </u> ÷ <u> 60 </u> = <u> 10.8 </u>) Delphi Data for Inventory Actions
*--5	(<u> 10.8 </u> X <u> 24.31 </u> = <u> 262.55 </u>) Amount from Step 4 2014 GS 11/1 Hourly Pay
6	(<u> 86.24 </u> + <u> 262.55 </u> = <u> 349.00 </u>)--* Amount from Step 3 Amount From Step 5 Administrative Costs for Inventory Property (Rounded to nearest \$)

Notice to Borrower's Attorney Regarding Loan Servicing Options

Note: Exhibit 34 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 34".

*--

5-FLP, Exhibit 34

This Exhibit may only be revised by SED.

(Use Agency Letterhead format with local return address.)

Notice to Borrower's Attorney Regarding Loan Servicing Options

RETURN ADDRESS

Borrower's Attorney's Address

Dear

This letter provides important information which the Farm Service Agency (FSA) requests you to provide to your client _____ who has filed a bankruptcy petition, or is currently under the jurisdiction of the bankruptcy court. Your client was also sent a copy of this letter. Subject to the applicable provisions of the Bankruptcy Code and FSA regulations, FSA may take action to enforce its security instrument given by _____ as security for an FSA loan. However, your client may be able to cure one or all of the problems indicated below so that it will not be necessary for FSA to enforce its security instrument.

Loan payments are \$ _____ past due.

Your client has disposed of some of the property used to secure the FSA loans. Your client did not get written approval for this action. This property is:

Your client has breached the agreements contained in the security instrument executed by your client in favor of FSA by taking the following actions: _____

Your client has failed to make the required payments under a confirmed bankruptcy plan.

Your client has

Before FSA can act to enforce its security instruments, its regulations require FSA to provide borrowers with notice of servicing options. The enclosed forms explain the loan servicing options that FSA has available. **THIS NOTICE WILL BE YOUR CLIENT'S ONLY OPPORTUNITY TO APPLY FOR THESE SERVICING OPTIONS. YOUR CLIENT WILL NOT BE RENOTIFIED OF ANY ADDITIONAL SERVICING OPTIONS WHILE UNDER THE PROTECTION OF THE BANKRUPTCY COURT.** Depending upon the prior servicing and previous loan history, your client may not be eligible for servicing consideration or may be eligible for only certain servicing options. The following servicing options are available:

--*

Notice to Borrower's Attorney Regarding Loan Servicing Options (Continued)

*--

5-FLP, Exhibit 34

This letter advises you that FSA can only consider eligibility for the remaining servicing options listed above, if any, and only within FSA's statutory and regulatory eligibility requirements. If there are servicing options available and your client wishes to apply for either primary or preservation loan servicing, you or your client must complete and return the enclosed application forms and any request for updated information, within * days of receipt of this notice. By this response, you will be acknowledging that when FSA processes your client's request for loan servicing it is not interfering with any rights or protections your client may have under the Bankruptcy Code and its automatic stay provisions. FSA's processing of the application may include considering your client for primary and preservation loan servicing options, notifying your client of FSA's decision on the application in accordance with 7 CFR part 766, and holding any mediation, meetings or appeals requested by your client. If your client fails to complete and return the required information within the *-day period, FSA will proceed to enforce its security instrument as allowed under the Bankruptcy Code and FSA regulations.

To ascertain whether your client is eligible for any remaining options, it may be necessary for FSA to work closely with your client. If your client requests this contact we hope that we can assist him or her. However, if favorable action is not possible, FSA will notify you, and provide your client with the opportunity to appeal the decision. FSA WILL NOT ACCELERATE THE ACCOUNT OR INITIATE FORECLOSURE UNTIL FSA COMPLIES WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE.

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

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Notice to Borrower's Attorney Regarding Loan Servicing Options (Continued)

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5-FLP, Exhibit 34

If your client is discharged in a Chapter 7 bankruptcy, your client must reaffirm the entire FSA debt in accordance with the provisions of the Bankruptcy Code in order to receive FSA primary loan servicing. Reaffirmation requires the approval of the Bankruptcy Court. No reaffirmation is necessary for your client to be eligible for preservation loan servicing.

If your client is operating under a confirmed bankruptcy plan, and desires to apply for loan servicing and qualifies for servicing under FSA's regulations, you must also comply with provisions of the Bankruptcy Code practiced in your jurisdiction concerning modification of the plan. If your client's plan has not yet been confirmed by the Bankruptcy Court, you may choose to file a proposed plan which may or may not contain restructuring features similar to those available under FSA regulations. The Government, of course, is free to object to the proposed plan in accordance with the provisions of the Bankruptcy Code. If a plan is confirmed before servicing and any appeal is completed under FSA regulations, FSA will complete the servicing or appeals process, and may consent to a post-confirmation modification of the plan, if appropriate, in accordance with advice from FSA's legal counsel.

FSA's loan servicing regulation is found at 7 CFR part 766. FSA cannot promise you or your client that a request for loan servicing will be approved. However, FSA can promise that a request for any loan servicing options which remain will be fully and fairly considered.

Sincerely,

Attachments

cc: [Borrower's name]

* Show number of days remaining as explained in 5-FLP, paragraph 401.

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