*Building Rural America*

**National Association of Credit Specialists**

of the

**USDA – Farm Service Agency**

**LOAN SERVICING COMMITTEE**



**THE LOAN SERVICING COMMITTEE MET AT THE HILTON OMAHA IN OMAHA, NE, ON JUNE 26-28, 2023, TO REVIEW RESOLUTIONS SUBMITTED BY THE MEMBERSHIP.**

**THE FOLLOWING RESOLUTIONS ARE RECOMMENDED FOR ADOPTION:**

**Resolution 1**

**CONCERN:**

Per 4-FLP, Subparagraph 267 D, if a deceased borrowers farm loan accounts cannot be paid in full, voluntarily liquidated, resolved through continuation with existing obligors, or transferred to a third party, the authorized agency official will comply with subparagraph 100 B before proceeding according to 5-FLP, paragraph 66.

This guidance leads us to sending 4-FLP, Exhibit 28.5 to the deceased, informing them that they are in potential nonmonetary default because they are no longer farming, and estates cannot be FSA program or NP borrowers. The issue is that the language in the exhibit is awkward and often confusing to whoever receives the notification. The language in the notification uses you multiple times and makes it appear as though we are clueless of the deceased passing and requests scheduling an appointment with them to discuss the default.

**PROPOSED SOLUTION:**

Develop a Notification of Potential Non-Monetary Default specifically for deceased borrowers. The language in the notification should make it clear we are aware of the deceaseds passing, explain why the loans cannot continue with the estate, and maybe even include a short summary of options available to cure the potential default (i.e. payment of debt, voluntary liquidation, transfer and assumption).

**Resolution 2**

**CONCERN:**

Form FSA 2254, Guaranteed Loan Report of Loss is difficult for lenders to complete accurately. Information is often entered in the wrong areas and or calculated incorrectly. This creates a time burden for FSA in reviewing the information and the constant back and forth over necessary corrections is frustrating for both parties.

**PROPOSED SOLUTION:**

A better lender checklist Form FSA 2295, Guaranteed Estimated Loss Review Checklist SEL and CLP Lenders and Form FSA 2296, Guaranteed Loan Final Loss Checklist that encompasses all information that should be on the form - line by line and explanations of what should not be on the form. Information is in too many places and it is confusing. Prorating profits and expenses among multiple GL and non-GL loans should also be included.

**Resolution 3**

**CONCERN:**

The DOJ assesses a 3% fee on all funds collected via civil litigation. This includes proceeds from FSA's foreclosure sales. Our regional OGC has issued an opinion stating that this 3% fee is not allowable as a recoverable cost under paragraph 13 of the FSA-2026 Promissory Note. As a result, when a foreclosure sale occurs, the net proceeds received by the agency are directly reduced by the amount of the 3% fee, meaning that the customer's loss to the government is increased by the same amount. This additional loss cannot be supported under the law, per our OGC. The agency needs to provide a path to avoid this inflation of our customer's loss amount. The additional 3% is an unnecessary and unsupportable increase to our customers' future liability if they ever wish to repay and cure the loss and re-apply for financing in the future.

**PROPOSED SOLUTION:**

A "Note" at Par 551D of 5-FLP already provides a mode for non-recoverable repayment of the 3% DOJ fee via a non-cash credit, but this tool is restricted to be used only for customers whose accounts will be paid in full with proceeds from the foreclosure sale. This guidance needs to be expanded to also allow the provision to be used when advised by the regional OGC that the fee cannot be charged in such a way that increases the customer's loss to the government. Suggested revised wording for the Note is "If the account is to be paid in full, or as advised by the regional OGC, request DAFLP concurrence to process the 3 percent DOJ fee as a non-cash credit."

**Resolution 4**

**CONCERN:**

Subordination requests take hours to complete due to gathering and analysing all the information required similar to a direct loan application. Streamlined and now Fast Track options are available to direct loan applicants who meet certain criteria which saves time and gets results to the applicant sooner.

**PROPOSED SOLUTION:**

Eliminate the process of gathering and analysing all the information required similar to a direct loan application. Develop a similar application process for routine subordinations similar to the Streamlined and Fast Track routes for direct loans.

**THE FOLLOWING RESOLUTIONS ARE RECOMMENDED FOR NON-ADOPTION:**

**Resolution 5**

**CONCERN:**

Working up a full loan request for participation FO's or FO's that have additional security pledged for a subordination for an interest rate change only. This deters borrowers from trying to refinance to get a lower interest rate which would help their cash flow and get them closer to being able to graduate.

**PROPOSED SOLUTION:**

If the request is just for the borrower to get a lower interest rate and there have been no significant changes to the operation, the FLO/FLM/DD (whoever has approval authority for the total principal debt) should be able to approve a subordination without working up a whole new loan request basically.

**EXPLANATION FOR NON-ADOPTON BY THE COMMITTEE:**

Very similar to now resolution #4.

**Resolution 6**

**CONCERN:**

List concern here

**PROPOSED SOLUTION**

List proposed solution here

**EXPLANATION FOR NON-ADOPTON BY THE COMMITTEE:**

Provide explanation here

Respectfully submitted by the 2022-2023 Loan Servicing Committee:

Courtney Owusu-Appiah, NM, Zone A Irby McWilliams, TX, Zone B - Chair

Nathan Denney, KY, Zone C Tonya Washington, AR, Zone D