

borrower must make the request in writing and provide the following:

(1) The specific amount of debt for which a subordination is needed;

(2) An appraisal in accordance with § 761.7 of this chapter, if the request is for more than \$10,000, unless an appraisal report that is sufficient, as determined by the Agency, that is less than one year old, is on file with the Agency; and

(3) Consent and subordination, as necessary, of all other creditors' security interests.

(c) *Approval.* SEDs are authorized to approve subordination requests.

(1) If a subordination request does not meet the requirements of this part, the SED may reject it and offer appeal rights, or recommend it to the Administrator, FSA, pursuant to exception authority, for approval.

(2) When the SED rejects a subordination request, the State Office will notify the borrower of the decision.

(3) When recommending to the Administrator for an exception, the SED must provide documentation on how approval of the subordination is in the best interest of the Government.

#### **§ 772.7 Leasing Minor Program loan security.**

(a) *Eligibility.* The Agency may consent to the borrower leasing all or a portion of security property for Minor Program loans to a third party when:

(1) Leasing is the only feasible way to continue to operate the enterprise and is a customary practice;

(2) The lease will not interfere with the purpose for which the loan was made;

(3) The borrower retains ultimate responsibility for the operation, maintenance and management of the facility or service for its continued availability and use at reasonable rates and terms;

(4) The lease prohibits amendments to the lease or subleasing arrangements without prior written approval from the Agency;

(5) The lease terms provide that the Agency is a lien holder on the subject property and, as such, the lease is subordinate to the rights and claims of the Agency as lien holder; and

(6) The lease is for less than three years and does not constitute a lease/purchase arrangement, unless the transfer and assumption provisions of this subpart are met.

(b) *Application.* The borrower must submit a written request for Agency consent to lease the property.

#### **§ 772.8 Sale or exchange of security property.**

(a) *AMP loans.* (1) Sale of all or a portion of security property for an AMP loan may be approved when:

(i) The property is sold for market value based on a current appraisal in accordance with the standards at § 761.7 of this chapter;

(ii) The sale will not prevent carrying out the original purpose of the loan. The borrower must execute RD Form 400-4 "Assurance Agreement" or successor form. The covenant involved will remain in effect as long as the property continues to be used for the same or similar purposes for which the loan was made. The instrument of conveyance will contain the nondiscrimination covenants contained in 7 CFR 1951.204;

(iii) The remaining security for the loan is adequate or will not change after the transaction;

(iv) Sale proceeds remaining after paying any reasonable and necessary selling expenses are applied to the Minor Program loan according to lien priority;

(2) Exchange of all or a portion of security property for an AMP loan may be approved when:

(i) The Agency will obtain a lien on the property acquired in the exchange.

(ii) Property more suited to the borrower's needs related to the purposes of the loan is to be acquired in the exchange;

(iii) The AMP loan will be as adequately secured after the transaction as before;

(iv) It is necessary to develop or enlarge the facility, improve the borrower's debt-paying ability, place the operation on a more sound financial basis or otherwise further the loan objectives and purposes, as determined by the Agency.

(b) *IMP loans.* (1) A sale or exchange of chattel that is serving as security for an IMP loan is governed by title 7, part 1962, subpart A of chapter XVIII of the Code of Federal Regulations.

(2) A sale or exchange of real estate that is serving as security for an IMP loan is governed by title 7, part 1965, subpart A of chapter XVIII of the Code of Federal Regulations.

#### **§ 772.9 Releases.**

(a) *Security.* Minor Program liens may be released when:

(1) The debt is paid in full.

(2) Security property is sold for market value and sale proceeds are received and applied to the borrower's creditors according to lien priority, or

(3) An exchange in accordance with § 772.7(b) of this subpart has been concluded.

(b) *Borrower liability.* The Agency may release a borrower from liability when the Minor Program loan, plus all administrative collection costs and charges are paid in full. IMP borrowers who have had previous debt forgiveness on a farm loan program loan as defined in 7 CFR 1951.906 cannot be released from liability by FSA until the previous loss to the Agency has been repaid with interest from the date of debt forgiveness.

(c) *Servicing of debt not satisfied through liquidation.* Balances remaining after sale or liquidation will be subject to administrative offset in accordance with 7 CFR part 1951, subpart C, including internal agency administrative offset, Department of Treasury Offset and Treasury Cross-Servicing. Thereafter, the debt settlement provisions in part 1956, subpart B (for IMP loans) and subpart C (for AMP loans) of chapter XVIII of the Code of Federal Regulations apply.

#### **§ 772.10 Transfer and assumption—AMP loans.**

(a) *Eligibility.* The Agency may approve transfers and assumptions of AMP loans when:

(1) The present borrower is unable or unwilling to accomplish the objectives of the loan.

(2) The transfer will not harm the Government or adversely affect the Agency's security position.

(3) The transferee will continue with the original purpose of the loan.

(4) The transferee will assume an amount at least equal to the present market value of the loan security.

(5) The transferee documents the ability to pay the AMP loan debt as provided in the assumption agreement and has the legal capacity to enter into the contract.

(6) If there is a lien or judgment against the Agency security being transferred, the transferee is subject to such claims. The transferee must document the ability to repay the claims against the land.

(7) If the transfer is to one or more members of the borrower's organization and there is no new member, there must not be a loss to the Government.

(b) *Withdrawal.* Withdrawal of a member and transfer of the withdrawing member's interest in the Association to a new eligible member may be approved by the Agency if all of the following conditions are met:

(1) The entire unpaid balance of the withdrawing member's share of the AMP loan must be assumed;

(2) In accordance with the Association's governing articles, the required number of remaining members