

## § 1965.18

## 7 CFR Ch. XVIII (1-1-01 Edition)

by OGC which is necessary to comply with State law.

[51 FR 4140, Feb. 3, 1986, as amended at 53 FR 35795, Sept. 14, 1988; 58 FR 52654, Oct. 12, 1993]

### § 1965.18 Transfer of upland cotton, peanut, or tobacco allotments.

(a) *General.* Agriculture Stabilization and Conservation Service (ASCS) regulations, pursuant to approved legislation, permit the transfer of upland cotton, peanut, or tobacco allotments by one or more of the following transactions: (1) Sale, (2) lease, or (3) transfer by the owner to another farm owned or controlled by the owner. These regulations require, among other things, that no allotment be transferred from a farm which is subject to a mortgage or other lien, unless the transfer is agreed to by the lienholders. It is FmHA or its successor agency under Public Law 103-354's policy to approve the transfer of any crop allotments permitted by the ASCS regulations if the conditions and requirements of this subpart can be met. FmHA or its successor agency under Public Law 103-354 personnel should familiarize themselves with the States ASCS policies and requirements concerning the sale, lease, or transfer of allotments to assure compliance with established FmHA or its successor agency under Public Law 103-354 policies and servicing of security.

(b) *Authorization.* County Supervisors are authorized to approve a transfer of upland cotton, peanut, or tobacco allotment by execution of a completed Form FmHA or its successor agency under Public Law 103-354 465-1. County Supervisors are also authorized to execute the lienholder or mortgagee agreement on appropriate ASCS forms provided by ASCS for those cases in which a transfer is approved.

(c) *Transfer by sale.* Crop allotments enhance the value of a farm mortgaged to the FmHA or its successor agency under Public Law 103-354 and constitute security for the FmHA or its successor agency under Public Law 103-354 loan. Accordingly, when a borrower whose farm is mortgaged to the FmHA or its successor agency under Public Law 103-354 inquires about the sale of any of the allotted acres or requests the FmHA or its successor agency

under Public Law 103-354 to sign the required lienholder or mortgagee agreement, the request will be treated the same as for a sale of a portion of the security and approval of the sale can be granted only in accordance with the applicable conditions and requirements of § 1965.13 of this subpart. The sale proceeds may be used as authorized in § 1965.13(f) of this subpart.

(d) *Transfer of allotment by lease.* The County Supervisor has the authority to approve a lease of all or a portion of an allotment for a 1 year period, provided the lease or its terms will not adversely affect the repayment of the loan; leasing is not an alternative to or means of delaying liquidation; and the lease and use of proceeds will further the objectives of the loan. If a 1 year lease is approved, the lease proceeds may be used as farm income as outlined in § 1962.17(b) of Subpart A of Part 1962 of this chapter. Leases for a period of more than 1 year will be granted only with the concurrence of the District Director. When a lease is for more than 1 year, an assignment of the rental proceeds should be obtained.

(e) *Transfer of allotment by owner to other land owned or controlled by the owner.* A transfer by an owner to other land owned or controlled by the owner is normally interpreted by the ASCS as a permanent transfer and can be avoided only by stipulating in the mortgage approval that the transfer is to be considered as a lease for the appropriate number of years. This type of transfer will be approved only as a lease under conditions in paragraph (d) of this section to assure that the crop allotment on the security is not adversely affected.

### § 1965.19 Severance agreement.

Form FmHA or its successor agency under Public Law 103-354 440-26, "Consent and Subordination Agreement," will be completed when a borrower requests FmHA or its successor agency under Public Law 103-354's consent to a severance agreement, or other instrument of similar effect, so that items to be acquired by the borrower through other credit and subject to a chattel lien will not become a part of the real estate securing the FmHA or its successor agency under Public Law 103-354