

**Farm Service Agency, USDA****§ 764.151**

(d) When the property is the applicant's personal residence and appurtenances and:

(1) They are located on a separate parcel; and

(2) The real estate that serves as security for the FLP loan plus crops and chattels are greater than or equal to 150 percent of the unpaid balance due on the loan;

(e) When the property is subsistence livestock, cash, working capital accounts the applicant uses for the farming operation, retirement accounts, personal vehicles necessary for family living, household contents, or small equipment such as hand tools and lawn mowers; or

(f) On marginal land and timber that secures an outstanding ST loan.

**§ 764.107 General appraisal requirements.**

(a) *Establishing value for real estate.* The value of real estate will be established by an appraisal completed in accordance with § 761.7 of this chapter.

(b) *Establishing value for chattels.* The value of chattels will be established as follows:

(1) *Annual production.* The security value of annual livestock and crop production is presumed to be 100 percent of the amount loaned for annual operating and family living expenses, as outlined in the approved farm operating plan.

(2) *Livestock and equipment.* The value of livestock and equipment will be established by an appraisal completed in accordance with § 761.7 of this chapter.

**§ 764.108 General insurance requirements.**

The applicant must obtain and maintain insurance, equal to the lesser of the value of the security at the time of loan closing or the principal of all FLP and non-FLP loans secured by the property, subject to the following:

(a) All security, except growing crops, must be covered by hazard insurance if it is readily available (sold by insurance agents in the applicant's normal trade area) and insurance premiums do not exceed the benefit. The Agency must be listed as loss payee for the insurance indemnity payment or as

a beneficiary in the mortgagee loss payable clause.

(b) Real estate security located in flood or mudslide prone areas must be covered by flood or mudslide insurance. The Agency must be listed as a beneficiary in the mortgagee loss payable clause.

(c) Growing crops used to provide adequate security must be covered by crop insurance if such insurance is available. The Agency must be listed as loss payee for the insurance indemnity payment.

(d) Prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for each crop which is a basic part of the applicant's total operation, if such insurance is available, unless the applicant executes a written waiver of any emergency crop loss assistance with respect to such crop. The applicant must execute an assignment of indemnity in favor of the Agency for this coverage.

**§§ 764.109–764.150 [Reserved]****Subpart D—Farm Ownership Loan Program****§ 764.151 Farm Ownership loan uses.**

FO loan funds may only be used to:

(a) Acquire or enlarge a farm or make a down payment on a farm;

(b) Make capital improvements to a farm owned by the applicant, for construction, purchase or improvement of farm dwellings, service buildings or other facilities and improvements essential to the farming operation. In the case of leased property, the applicant must have a lease to ensure use of the improvement over its useful life or to ensure that the applicant receives compensation for any remaining economic life upon termination of the lease;

(c) Promote soil and water conservation and protection;

(d) Pay loan closing costs;

(e) Refinance a bridge loan if the following conditions are met:

(1) The applicant obtained the loan to be refinanced to purchase a farm after a direct FO was approved;

(2) Direct FO funds were not available to fund the loan at the time of approval;

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- (3) The loan to be refinanced is temporary financing; and
- (4) The loan was made by a commercial or cooperative lender.

### **§ 764.152 Eligibility requirements.**

The applicant:

- (a) Must comply with the general eligibility requirements established at § 764.101;
- (b) And anyone who will sign the promissory note, must not have received debt forgiveness from the Agency on any direct or guaranteed loan;
- (c) Must be the owner-operator of the farm financed with Agency funds after the loan is closed. In the case of an entity:
  - (1) The entity is controlled by farmers engaged primarily and directly in farming in the United States, after the loan is made;
  - (2) The entity must be authorized to own and operate the farm in the State in which the farm is located;
  - (3) If the entity members holding a majority interest are:
    - (i) Related by blood or marriage, at least one member of the entity must operate the farm;
    - (ii) Not related by blood or marriage, the entity members holding a majority interest must own and operate the farm.
  - (d) And in the case of an entity, one or more members constituting a majority interest, must have participated in the business operations of a farm for at least 3 years out of the 10 years prior to the date the application is submitted.
  - (e) And anyone who will sign the promissory note, must satisfy at least one of the following conditions:
    - (1) Meet the definition of a beginning farmer;
    - (2) Have not had a direct FO loan outstanding for more than a total of 10 years prior to the date the new FO loan is closed;
    - (3) Have never received a direct FO loan.

### **§ 764.153 Limitations.**

The applicant must:

- (a) Comply with the general limitations established at § 764.102;
- (b) Have dwellings and other buildings necessary for the planned oper-

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ation of the farm available for use after the loan is made.

### **§ 764.154 Rates and terms.**

(a) *Rates.* (1) The interest rate is the Agency's Direct Farm Ownership rate, available in each Agency office.

(2) The limited resource Farm Ownership interest rate is available to applicants who are unable to develop a feasible plan at regular interest rates.

(3) If the FO loan is part of a joint financing arrangement and the amount of the Agency's loan does not exceed 50 percent of the total amount financed, the Agency will use the Farm Ownership participation rate, available in each Agency office.

(4) The interest rate charged will be the lower of the rate in effect at the time of loan approval or loan closing.

(b) *Terms.* The Agency schedules repayment of an FO loan based on the applicant's ability to repay and the useful life of the security. In no event will the term be more than 40 years from the date of the note.

### **§ 764.155 Security requirements.**

An FO loan must be secured:

- (a) In accordance with §§ 764.103 through 764.106;
- (b) At a minimum, by the real estate being purchased or improved.

## **§§ 764.156–764.200 [Reserved]**

## **Subpart E—Downpayment Loan Program**

### **§ 764.201 Downpayment loan uses.**

Downpayment loan funds may be used to partially finance the purchase of a family farm by an eligible beginning farmer or socially disadvantaged farmer.

[72 FR 63298, Nov. 8, 2007, as amended at 73 FR 74345, Dec. 8, 2008]

### **§ 764.202 Eligibility requirements.**

The applicant must:

- (a) Comply with the general eligibility requirements established at § 764.101 and the FO eligibility requirements of § 764.152; and