

## § 765.204

- (c) Pay real estate taxes and assessments;
- (d) Pay property, hazard, or flood insurance;
- (e) Pay harvesting costs;
- (f) Maintain Agency security instruments;
- (g) Pay ground rents;
- (h) Pay expenses for emergency measures to protect the Agency's collateral; and
- (i) Protect the Agency from actions by third parties.

### § 765.204 Notifying potential purchasers.

(a) *States with Central Filing System (CFS).* The Agency participates and complies with central filing systems in States where CFS has been organized. In a State with a CFS, the Agency is not required to additionally notify potential purchasers that the Agency has a lien on a borrower's chattel security, unless specifically required by State law.

(b) *States without CFS.* In a State without CFS, the Agency follows the filing requirements specified for perfecting a lien on a borrower's chattel security under State law. The Agency will distribute the list of chattel and crop borrowers to sale barns, warehouses, and other businesses that buy or sell chattels or crops. In addition, the Agency may provide the list of borrowers to potential purchasers upon request.

### § 765.205 Subordination of liens.

(a) *Borrower application requirements.* The borrower must submit the following, unless it already exists in the Agency's file and is still current as determined by the Agency:

- (1) Completed Agency application for subordination form;
- (2) A current financial statement, including, in the case of an entity, financial statements from all entity members;
- (3) Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR part 1940;
- (4) Verification of all non-farm income;
- (5) The farm's operating plan, including a projected cash flow budget re-

## 7 CFR Ch. VII (1-1-11 Edition)

flecting production, income, expenses, and debt repayment plan; and

- (6) Verification of all debts.

(b) *Real estate security.* For loans secured by real estate, the Agency will approve a request for subordination if all of the following conditions are met:

(1) The borrower is not in default or will not be in default on FLP loans by the time the subordination closing is complete;

(2) The loan will be used for an authorized loan purpose or is made in conjunction with a guaranteed loan;

(3) The credit is essential to the farming operation, and the borrower cannot obtain the credit without a subordination;

(4) The borrower can demonstrate, through a current farm operating plan, the ability to repay all debt payments scheduled, and to be scheduled, during the production cycle;

(5) The FLP loan is still adequately secured after the subordination, or the value of the loan security will be increased by an amount at least equal to the advance to be made under the subordination;

(6) The borrower is not able to graduate on any program except for CL;

(7) If the borrower is an entity and the Agency has taken real estate as additional security on property owned by a member, a subordination for any authorized loan purpose may be approved when it is needed for the entity member to finance a separate farming operation, provided the subordination does not cause the unpaid principal and interest on the FLP loans to exceed the value of loan security or otherwise adversely affect the security;

(8) The borrower must not be ineligible as a result of a conviction for controlled substances according to 7 CFR part 718 of this chapter;

(9) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to 7 CFR part 718 of this chapter;

(10) The borrower will not use loan funds in a way that will contribute to erosion of highly erodible land or conversion of wetlands as described in subpart G of 7 CFR part 1940;