

## Farm Service Agency, USDA

## § 763.1

(i) The Agency purchased and is holder of a loan that was assigned by the lender that is requesting the assignment.

(ii) The lender has not complied with the reimbursement requirements of § 762.144(c)(7), except when the 180 day reimbursement or liquidation requirement has been waived by the Agency.

(3) The lender will provide the Agency with copies of all appropriate forms used in the assignment.

(4) The guaranteed portion of the loan may not be assigned by the lender until the loan has been fully disbursed to the borrower.

(5) The lender is not permitted to assign any amount of the guaranteed or unguaranteed portion of the loan to the applicant or borrower, or members of their immediate families, their officers, directors, stockholders, other owners, or any parent, subsidiary, or affiliate.

(6) Upon the lender's assignment of the guaranteed portion of the loan, the lender will remain bound to all obligations indicated in the Guarantee, Lender's Agreement, the Agency program regulations, and to future program regulations not inconsistent with the provisions of the Lenders Agreement. The lender retains all rights under the security instruments for the protection of the lender and the United States.

(b) The following will occur upon the lender's assignment of the guaranteed portion of the loan:

(1) The holder will succeed to all rights of the Guarantee pertaining to the portion of the loan assigned.

(2) The lender will send the holder the borrower's executed note attached to the Guarantee.

(3) The holder, upon written notice to the lender and the Agency, may assign the unpaid guaranteed portion of the loan. The holder must assign the guaranteed portion back to the original lender if requested for servicing or liquidation of the account.

(4) The Guarantee or Assignment of Guarantee in the holder's possession does not cover:

(i) Interest accruing 90 days after the holder has demanded repurchase by the lender, except as provided in the Assignment of Guarantee and § 762.144(c)(3)(iii).

(ii) Interest accruing 90 days after the lender or the Agency has requested the holder to surrender evidence of debt repurchase, if the holder has not previously demanded repurchase.

(c) Negotiations concerning premiums, fees, and additional payments for loans are to take place between the holder and the lender. The Agency will participate in such negotiations only as a provider of information.

[70 FR 56107, Sept. 26, 2005]

### PART 763—LAND CONTRACT GUARANTEE PROGRAM

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AUTHORITY: 5 U.S.C. 501 and 7 U.S.C. 1989.

SOURCE: 76 FR 75430, Dec. 2, 2011, unless otherwise noted.

#### § 763.1 Introduction.

(a) *Purpose.* The Land Contract Guaranteed Program provides certain financial guarantees to the seller of a farm through a land contract sale to a beginning farmer or a socially disadvantaged farmer.

(b) *Types of guarantee.* The seller may request either of the following:

(1) *The prompt payment guarantee plan.* The Agency will guarantee an

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amount not to exceed three amortized annual installments plus an amount equal to the total cost of any related real estate taxes and insurance incurred during the period covered by the annual installment; or

(2) *The standard guarantee plan.* The Agency will guarantee an amount equal to 90 percent of the outstanding principal under the land contract.

(c) *Guarantee period.* The guarantee period is 10 years for either plan regardless of the term of the land contract.

### §763.2 Abbreviations and definitions.

Abbreviations and definitions for terms used in this part are in §761.2 of this chapter.

### §763.3 Full faith and credit.

(a) The land contract guarantee constitutes an obligation supported by the full faith and credit of the United States. The Agency may contest the guarantee only in cases of fraud or misrepresentation by the seller, in which:

(1) The seller had actual knowledge of the fraud or misrepresentation at the time it became the seller, or

(2) The seller participated in or condoned the fraud or misrepresentation.

(b) Loss claims also may be reduced or denied to the extent that any negligence contributed to the loss under §763.22.

### §763.4 Authorized land contract purpose.

The Agency will only guarantee the Contract installments, real estate taxes and insurance; or outstanding principal balance for an eligible seller of a family farm, through a land contract sale to an eligible beginning or socially disadvantaged farmer.

### §763.5 Eligibility.

(a) *Seller eligibility requirements.* The private seller, and each entity member in the case of an entity seller, must:

(1) Possess the legal capacity to enter into a legally binding agreement;

(2) Not have provided false or misleading documents or statements during past or present dealings with the Agency;

(3) Not be ineligible due to disqualification resulting from Federal Crop

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Insurance violation, according to 7 CFR part 718; and

(4) Not be suspended or debarred under 2 CFR parts 180 and 417.

(b) *Buyer eligibility requirements.* The buyer must meet the following requirements to be eligible for the Land Contract Guarantee Program:

(1) Is a beginning farmer or socially disadvantaged farmer engaged primarily in farming in the United States after the guarantee is issued.

(2) Is the owner and operator of a family farm after the Contract is completed. In the case of an entity buyer:

(i) Each entity member's ownership interest may not exceed the amount specified in the family farm definition in §761.2 of this chapter.

(ii) The entity members cannot themselves be entities.

(iii) The entity must be authorized to own and operate a farm in the State in which the farm is located.

(iv) If the entity members holding a majority interest are related by blood or marriage, at least one member of the entity must:

(A) Operate the farm and

(B) Own the farm after the contract is completed;

(v) If the entity members holding a majority interest are not related by blood or marriage, the entity members holding a majority interest must:

(A) Operate the farm; and

(B) Own the farm, or the entity itself must own the farm after the contract is completed;

(3) Must have participated in the business operations of a farm or ranch for at least 3 years out of the last 10 years prior to the date the application is submitted.

(4) The buyer, and all entity members in the case of an entity, must not have caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Act by debt write-down or write-off; compromise, adjustment, reduction, or charge off under the provisions of section 331 of the Act; discharge in bankruptcy; or through payment of a guaranteed loss claim on more than three occasions on or prior to April 4, 1996 or any occasion after April 4, 1996. If the debt forgiveness is resolved by repayment of the