

§ 3565.206

percent of the total annual operating income of the project.

(11) Costs for feasibility determination, loan application fees, appraisals, environmental documentation, professional fees or other fees determined by the Agency to be necessary to the development of the project;

(12) Technical assistance to and by non-profit entities to assist in the formation, development, and packaging of a project, or formation or incorporation of a borrower entity;

(13) Education programs for a board of directors, both before and after incorporation of a cooperative that will serve as the borrower;

(14) Construction interest accrued on the construction loan;

(15) Relocation assistance in the case of rehabilitation projects;

(16) Developers' fees; and

(17) Repaying applicant debts in the following cases:

(i) When the Agency authorizes in writing in advance the use of loan funds to pay debts for work, materials, land purchase, or other fees and charges before the loan is closed; or

(ii) When the Agency concurs in writing with a determination by the lender that costs for work, fees and charges incurred prior to loan application are integral to development of the guarantee application and project.

(b) *Rehabilitation requirements.* Rehabilitation work must be classified as either moderate or substantial as defined in exhibit K of 7 CFR part 1924, subpart A or a successor document. In all cases, the building or project must be structurally sound, and improvements must be necessary to meet the requirements of decent, safe, and sanitary living units. Applications must include a structural analysis, along with plans and specifications describing the type and amount of planned rehabilitation. The project as rehabilitated must meet the applicable development standards contained in 7 CFR part 1924, subpart A or a successor regulation, as well as any applicable historic preservation requirements. All proposed rehabilitation projects are subject to an environmental review completed in accordance with 7 CFR part 1940, subpart G or a successor regulation.

7 CFR Ch. XXXV (1-1-01 Edition)

§ 3565.206 Ineligible uses of loan proceeds.

Loan proceeds must not be used for the following:

(a) Specialized equipment for training and therapy;

(b) Housing in military impact areas;

(c) Housing that serves primarily temporary and transient residents;

(d) Nursing homes, special care facilities and institutional type homes that require licensing as a medical care facility;

(e) Operating capital for central dining facilities or for any items not affixed to the real estate, such as special portable equipment, furnishings, kitchen ware, dining ware, eating utensils, movable tables and chairs, etc.;

(f) Payment of fees, salaries and commissions or compensation to borrowers (except developers' fees); or

(g) Refinancing of an outstanding debt, except in the case of an existing guaranteed loan where the Agency determines that the refinancing is in the government's interest or furthers the objectives of the program. The term and amount of any loan for refinancing must not exceed the maximum loan amount or term limits.

§ 3565.207 Form of lien.

The loan originated by the lender for a guarantee must be secured by a first lien against the property.

§ 3565.208 Maximum loan term.

(a) *Statutory term limit.* The lender may set the term of the loan, but in no instance may the term of a guaranteed loan exceed the lesser of 40 years or the remaining economic life of the project.

(b) *Prepayment of loans.* A guaranteed loan may be prepaid in whole or in part at the determination of the lender, and upon the lender's written notice to the Agency at least 30 days prior to the expected date of prepayment. The Agency will not pay any lockout or prepayment penalty assessed by the lender. The lender must certify the following in the notice of prepayment:

(1) The lease documents used by the borrower or its agent prohibit the abrogation of tenant leases in the event of prepayment; and