

§ 765.102 Borrower noncompliance with graduation requirements.

Borrower failure to fulfill all graduation requirements within the time-period specified by the Agency constitutes default on the loan. The Agency will accelerate the borrower's loan without offering servicing options provided in 7 CFR part 766.

§ 765.103 Transfer and assignment of Agency liens.

The Agency may assign its lien to the new lender when the borrower is graduating and all FLP debt will be paid in full.

§§ 765.104–765.150 [Reserved]**Subpart D—Borrower Payments****§ 765.151 Handling payments.**

(a) *Borrower payments.* Borrowers must submit their loan payments in a form acceptable to the Agency, such as checks, cash, and money orders. Forms of payment not acceptable to the Agency include, but are not limited to, foreign currency, foreign checks, and sight drafts.

(b) *Crediting account.* The Agency credits the borrower's account as of the date the Agency receives payment.

§ 765.152 Types of payments.

(a) *Regular payments.* Regular payments are derived from, but are not limited to:

- (1) The sale of normal income security;
- (2) The sale of farm products;
- (3) Lease income, including mineral lease signing bonus;
- (4) Program or disaster-related disbursements from USDA or crop insurance entities; and
- (5) Non-farm income.

(b) *Extra payments.* Extra payments are derived from any of the following:

- (1) Sale of chattel security other than normal income security;
- (2) Sale of real estate security;
- (3) Refinancing of FLP debt;
- (4) Cash proceeds of insurance claims received on Agency security, if not being used to repair or replace the security;

(5) Any transaction that results in a loss in the value of any Agency basic security;

(6) Refunds of duplicate disaster program benefits to be applied on an EM loan; or

(7) Refunds of unused loan funds.

(c) *Payments from sale of real estate.* Notwithstanding any other provision of this section, payments derived from the sale of real estate security will be treated as regular payments at the Agency's discretion, if the FLP loans will be adequately secured after the transaction.

§ 765.153 Application of payments.

(a) *Regular payments.* A regular payment is credited to a scheduled installment on program and non-program loans. Regular payments are applied to loans in the following order:

- (1) Annual operating loan;
- (2) Delinquent FLP installments, paying least secured loans first;
- (3) Non-delinquent FLP installments due in the current production cycle in order of security priority, paying least secured loans first;
- (4) Any future installments due.

(b) *Extra payments.* An extra payment is not credited to a scheduled installment and does not relieve the borrower's responsibility to make scheduled loan installments, but will reduce the borrower's FLP indebtedness. Extra payments are applied to FLP loans in order of lien priority except for refunds of unused loan funds, which shall be applied to the loan for which the funds were advanced.

§ 765.154 Distribution of payments.

The Agency applies both regular and extra payments to each loan in the following order, as applicable:

- (a) Recoverable costs and protective advances plus interest;
- (b) Deferred non-capitalized interest;
- (c) Accrued deferred interest;
- (d) Interest accrued to date of payment; and
- (e) Loan principal.

§ 765.155 Final loan payments.

(a) *General.* (1) Unless the Agency has reservations regarding the validity of the payment, the Agency may release the borrower's security instruments at

the time payment is made, if the borrower makes a final payment by one of the following methods:

- (i) Cash;
- (ii) U.S. Treasury check;
- (iii) Cashier's check; or
- (iv) Certified check.

(2) Security instruments will only be released when all loans secured by the instruments have been paid in full or otherwise satisfied.

(3) The Agency will return the paid note and satisfied security instruments to the borrower after the Agency processes the final payment and determines that the total indebtedness is paid in full.

(b) *Borrower refunds.* If the borrower refunds the entire loan after the loan is closed, the borrower must pay interest from the date of the note to the date the Agency received the funds.

(c) *Overpayments.* If an Agency miscalculation of a final payment results in an overpayment by the borrower of less than \$10, the borrower must request a refund from the Agency in writing. Overpayments of \$10 or more automatically will be refunded by the Agency.

(d) *Underpayments.* If an Agency miscalculation of a final payment amount results in an underpayment, the Agency may collect all account balances resulting from its error. If the Agency cannot collect an underpayment from the borrower, the Agency will attempt to settle the debt in accordance with subpart B of 7 CFR part 1956.

§§ 765.156–765.200 [Reserved]

Subpart E—Protecting the Agency's Security Interest

§ 765.201 General policy.

All Agency servicing actions regarding preservation and protection of Agency security will be consistent with the covenants and agreements contained in all loan agreements and security instruments.

§ 765.202 Borrower responsibilities.

The borrower must:

- (a) Comply with all provisions of the loan agreements;
 - (1) Non-compliance with the provisions of loan agreements and docu-

ments, other than failure to meet scheduled loan repayment installments contained in the promissory note, constitutes non-monetary default on FLP loans by the borrower;

(2) Borrower non-compliance will be considered by the Agency when making eligibility determinations for future requests for assistance and may adversely impact such requests;

(b) Maintain, protect, and account for all security;

(c) Pay the following, unless State law requires the Agency to pay:

(1) Fees for executing, filing or recording financing statements, continuation statements or other security instruments; and

(2) The cost of lien search reports;

(d) Pay taxes on property securing FLP loans when they become due;

(e) Maintain insurance coverage in an amount specified by the Agency;

(f) Protect the interests of the Agency when a third party brings suit or takes other action that could affect Agency security.

§ 765.203 Protective advances.

When necessary to protect the Agency's security interest, costs incurred for the following actions will be charged to the borrower's account:

(a) Maintain abandoned security property;

(b) Preserve inadequately maintained security;

(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