

(1) The delinquency or financial distress is the result of reduced repayment ability due to one of the following circumstances beyond the borrower's control:

(i) Illness, injury, or death of a borrower or other individual who operates the farm;

(ii) Natural disaster, adverse weather, disease, or insect damage which caused severe loss of agricultural production;

(iii) Widespread economic conditions such as low commodity prices;

(iv) Damage or destruction of property essential to the farming operation; or

(v) Loss of, or reduction in, the borrower or spouse's essential non-farm income.

(2) The borrower does not have non-essential assets for which the net recovery value is sufficient to resolve the financial distress or pay the delinquent portion of the loan.

(3) If the borrower is in non-monetary default, the borrower will resolve the non-monetary default prior to closing the servicing action.

(4) The borrower has acted in good faith.

(5) Financially distressed or current borrowers requesting servicing must pay a portion of the interest due on the loans.

(6) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to 7 CFR part 718.

(b) Debtors with SA only must:

(1) Be delinquent due to circumstances beyond their control;

(2) Have acted in good faith.

§ 766.105 Agency consideration of servicing requests.

(a) *Order in which Agency considers servicing options.* The Agency will consider loan servicing options and combinations of options to maximize loan repayment and minimize losses to the Agency. The Agency will consider loan servicing options in the following order for each eligible borrower who requests servicing:

(1) Conservation Contract, if requested;

(2) Consolidation and rescheduling or reamortization;

(3) Deferral;

(4) Writedown; and

(5) Current market value buyout.

(b) *Debt service margin.* (1) The Agency will attempt to achieve a 110 percent debt service margin for the servicing options listed in paragraphs (a)(2) through (4) of this section.

(2) If the borrower cannot develop a feasible plan with the 110 percent debt service margin, the Agency will reduce the debt service margin by one percent and reconsider all available servicing authorities. This process will be repeated until a feasible plan has been developed or it has been determined that a feasible plan is not possible with a 100 percent margin.

(3) The borrower must be able to develop a feasible plan with at least a 100 percent debt service margin to be considered for the servicing options listed in paragraphs (a)(1) through (4) of this section.

(c) *Appraisal of borrower's assets.* The Agency will obtain an appraisal on:

(1) All Agency security, non-essential assets, and real property unencumbered by the Agency that does not meet the criteria established in § 766.112(b), when:

(i) A writedown is required to develop a feasible plan;

(ii) The borrower will be offered current market value buyout.

(2) The borrower's non-essential assets when their net recovery value may be adequate to bring the delinquent loans current.

§ 766.106 Agency notification of decision regarding a complete application.

The Agency will send the borrower notification of the Agency's decision within 60 calendar days after receiving a complete application for loan servicing.

(a) *Notification to financially distressed or current borrowers.* (1) If the borrower can develop a feasible plan and is eligible for primary loan servicing, the Agency will offer to service the account.

(i) The borrower will have 45 days to accept the offer of servicing. After accepting the Agency's offer, the borrower must execute loan agreements

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and security instruments, as appropriate.

(ii) If the borrower does not accept the offer, the Agency will send the borrower another notification of the availability of loan servicing if the borrower becomes 90 days past due in accordance with § 766.101(a)(2).

(2) If the borrower cannot develop a feasible plan, or is not eligible for loan servicing, the Agency will send the borrower the calculations used and the reasons for the adverse decision.

(i) The borrower may request reconsideration, mediation and appeal in accordance with 7 CFR parts 11 and 780 of this title.

(ii) The Agency will send the borrower another notification of the availability of loan servicing if the borrower becomes 90 days past due in accordance with § 766.101(a)(2).

(b) *Notification to borrowers 90 days past due or in non-monetary default.* (1) If the borrower can develop a feasible plan and is eligible for primary loan servicing, the Agency will offer to service the account.

(i) The borrower will have 45 days to accept the offer of servicing. After accepting the Agency's offer, the borrower must execute loan agreements and security instruments, as appropriate.

(ii) If the borrower does not timely accept the offer, or fails to respond, the Agency will notify the borrower of its intent to accelerate the account.

(2) If the borrower cannot develop a feasible plan, or is not eligible for loan servicing, the Agency will send the borrower notification within 15 days, including the calculations used and reasons for the adverse decision, of its intent to accelerate the account in accordance with subpart H of this part, unless the account is resolved through any of the following options:

(i) The borrower may request reconsideration, mediation or voluntary meeting of creditors, or appeal in accordance with 7 CFR parts 11 and 780.

(ii) The borrower may request negotiation of appraisal within 30 days in accordance with § 766.115.

(iii) If the net recovery value of non-essential assets is sufficient to pay the account current, the borrower has 90 days to pay the account current.

(iv) The borrower, if eligible in accordance with § 766.113, may buy out the loans at the current market value within 90 days.

(v) The borrower may request homestead protection if the borrower's primary residence was pledged as security by providing the information required under § 766.151.

§ 766.107 Consolidation and rescheduling.

(a) *Loans eligible for consolidation.* The Agency may consolidate OL loans if:

(1) The borrower meets the loan servicing eligibility requirements in § 766.104;

(2) The Agency determines that consolidation will assist the borrower to repay the loans;

(3) Consolidating the loans will bring the borrower's account current or prevent the borrower from becoming delinquent;

(4) The Agency has not referred the borrower's account to OGC or the U.S. Attorney, and the Agency does not plan to refer the account to either of these two offices in the near future;

(5) The borrower is in compliance with the Highly Erodible Land and Wetland Conservation requirements of 7 CFR part 12, if applicable;

(6) The loans are not secured by real estate;

(7) The Agency holds the same lien position on each loan;

(8) The Agency has not serviced the loans for unauthorized assistance under subpart F of this part; and

(9) The loan is not currently deferred, as described in § 766.109, or set-aside, as described in subpart B of this part. The Agency may consolidate loans upon cancellation of the deferral or DSA.

(b) *Loans eligible for rescheduling.* The Agency may reschedule loans made for chattel purposes, including OL, CL, SW, RL, EE, or EM if:

(1) The borrower meets the loan servicing eligibility requirements in § 766.104;

(2) Rescheduling the loans will bring the borrower's account current or prevent the borrower from becoming delinquent;

(3) The Agency determines that rescheduling will assist the borrower to repay the loans;