

**§ 766.303 Processing loan servicing requests from borrowers in bankruptcy.**

(a) *Considering borrower requests for servicing.* Any request for servicing is the borrower's acknowledgment that the Agency will not interfere with any rights or protections under the Bankruptcy Code and its automatic stay provisions.

(b) *Borrowers with confirmed bankruptcy plans.* If a plan is confirmed before servicing and any appeal is completed under 7 CFR part 11, the Agency will complete the servicing or appeals process and may consent to a post-confirmation modification of the plan if it is consistent with the Bankruptcy Code and subpart C of this part, as appropriate.

(c) *Chapter 7 borrowers.* A borrower filing for bankruptcy under chapter 7 of the Bankruptcy Code may not receive primary loan servicing unless the borrower reaffirms the entire FLP debt. A borrower who filed chapter 7 does not have to reaffirm the debt in order to be considered for homestead protection.

§§ 766.304–766.350 [Reserved]

**Subpart H—Loan Liquidation****§ 766.351 Liquidation.**

(a) *General.* (1) When a borrower cannot or will not meet a loan obligation, the Agency will consider liquidating the borrower's account in accordance with this subpart.

(2) The Agency will charge protective advances against the borrower's account as necessary to protect the Agency's interests during liquidation in accordance with § 765.203 of this chapter.

(3) When no surviving family member or third party assumes or repays a deceased borrower's loan in accordance with part 765, subpart J, of this chapter, or when the estate does not otherwise fully repay or sell loan security to repay a deceased borrower's FLP loans, the Agency will liquidate the security as quickly as possible in accordance with State and local requirements.

(b) *Liquidation for Program borrowers.* (1) If the borrower does not apply, does not accept, or is not eligible for pri-

mary loan servicing, conservation contract, market value buyout or homestead protection, and all administrative appeals are concluded, the Agency will accelerate the borrower's account in accordance with §§ 766.355 and 766.356, as appropriate.

(2) Borrowers may voluntarily liquidate their security in accordance with §§ 766.352, 766.353 and 766.354. In such case, the Agency will:

(i) Not delay involuntary liquidation action.

(ii) Notify the borrower in accordance with subpart C of this part, prior to acting on the request for voluntary liquidation, if the conditions of paragraph (b)(1) of this section have not been met.

(c) *Liquidation for Non-program borrowers.* If a borrower has both program and Non-program loans, the borrower's account will be handled in accordance with paragraph (b) of this section. If a borrower with only Non-program loans is in default, the borrower may liquidate voluntarily, subject to the following:

(1) The Agency may delay involuntary liquidation actions when in the Agency's financial interest for a period not to exceed 60 days.

(2) The borrower must obtain the Agency's consent prior to the sale of the property.

(3) If the borrower will not pay the Agency in full, the minimum sales price must be the market value of the property as determined by the Agency.

(4) The Agency will accept a conveyance offer only when it is in the Agency's financial interest.

(5) If a Non-program borrower does not cure the default, or cannot or will not voluntarily liquidate, the Agency will accelerate the loan.

**§ 766.352 Voluntary sale of real property and chattel.**

(a) *General.* A borrower may voluntarily sell real property or chattel security to repay FLP debt in lieu of involuntary liquidation if all applicable requirements of this section are met. Partial dispositions are handled in accordance with part 765, subparts G and H, of this chapter.

(1) The borrower must sell all real property and chattel that secure FLP

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debt until the debt is paid in full or until all security has been liquidated.

(2) The Agency must approve the sale and approve the use of proceeds.

(3) The sale proceeds are applied in order of lien priority, except that proceeds may be used to pay customary costs appropriate to the transaction provided:

(i) The costs are reasonable in amount;

(ii) The borrower is unable to pay the costs from personal funds or have the purchaser pay;

(iii) The costs must be paid to complete the sale;

(iv) Costs are not for postage and insurance of the note while in transit when required for the Agency to present the promissory note to the recorder to obtain a release of a portion of the real property from the mortgage.

(4) The Agency will approve the sale of property when the proceeds do not cover the borrower's full debt only if:

(i) The sales price must be equal to or greater than the market value of the property; and

(ii) The sale is in the Agency's financial interest.

(5) If an unpaid loan balance remains after the sale, the Agency will continue to service the loan in accordance with part 761, subpart F of this chapter and part 3 of this title.

(b) *Voluntary sale of chattel.* If the borrower complies with paragraph (a) of this section, the borrower may sell chattel security by:

(1) Public sale if the borrower obtains the agreement of lienholders as necessary to complete the public sale; or

(2) Private sale if the borrower:

(i) Sells all of the security for not less than the market value;

(ii) Obtains the agreement of lienholders as necessary to complete the sale;

(iii) Has a buyer who is ready and able to purchase the property; and

(iv) Obtains the Agency's agreement for the sale.

[72 FR 63316, Nov. 8, 2007, as amended at 85 FR 36713, June 17, 2020]

**7 CFR Ch. VII (1-1-24 Edition)**

**§ 766.353 Voluntary conveyance of real property.**

(a) *Requirements for conveying real property.* The borrower must supply the Agency with the following:

(1) An Agency application form;

(2) A current financial statement. If the borrower is an entity, all entity members must provide current financial statements;

(3) Information on present and future income and potential earning ability;

(4) A warranty deed or other deed acceptable to the Agency;

(5) A resolution approved by the governing body that authorizes the conveyance in the case of an entity;

(6) Assignment of all leases to the Agency. The borrower must put all oral leases in writing;

(7) Title insurance or title record for the security, if available;

(8) Complete debt settlement application in accordance with subpart B of part 761, subpart F of this chapter before, or in conjunction with, the voluntary conveyance offer if the value of the property to be conveyed is less than the FLP debt; and

(9) Any other documentation required by the Agency to evaluate the request.

(b) *Conditions for conveying real property.* The Agency will accept voluntary conveyance of real property by a borrower if:

(1) Conveyance is in the Agency's financial interest;

(2) The borrower conveys all real property securing the FLP loan; and

(3) The borrower has received prior notification of the availability of loan servicing in accordance with subpart C of this part.

(c) *Prior and junior liens.* (1) The Agency will pay prior liens to the extent consistent with the Agency's financial interest.

(2) Before conveyance, the borrower must pay or obtain releases of all junior liens, real estate taxes, judgments, and other assessments. If the borrower is unable to pay or obtain a release of the liens, the Agency may attempt to negotiate a settlement with the lienholder if it is in the Agency's financial interest.

(d) *Charging and crediting the borrower's account.* (1) The Agency will