

## Farm Service Agency, USDA

## § 766.113

Resources Conservation Service's (NRCS) technical decisions made in connection with a Conservation Contract, will be handled in accordance with applicable NRCS regulations. Other aspects of the denial of a conservation contract may be appealed in accordance with 7 CFR parts 11 and 780.

### § 766.111 Writedown.

(a) *Eligibility.* The Agency will only consider a writedown if the borrower:

- (1) Meets the eligibility criteria in § 766.104;
- (2) Is delinquent;
- (3) Has not previously received debt forgiveness on any FLP direct loan; and

(4) Complies with the Highly Erodible Land and Wetland Conservation requirements of 7 CFR part 12.

(b) *Conditions.* (1) Rescheduling, consolidation, reamortization, deferral or some combination of these options on all of the borrower's loans would not result in a feasible plan with a 110 percent debt service margin. If a feasible plan, including writedown is achieved with a debt service margin of 101 percent or more, the Agency will determine if a feasible plan can be achieved without a writedown. If a feasible plan is achieved with and without a writedown and the borrower meets all the eligibility requirements, both options will be offered and the borrower may choose one option.

(2) The present value of the restructured loan must be greater than or equal to the net recovery value of Agency security and any non-essential assets.

(3) The writedown amount, excluding debt reduction received through Conservation Contract, does not exceed \$300,000.

(4) A borrower who owns real estate must execute an SAA in accordance with § 766.201.

(c) *Associated loan servicing.* Loans written down will also be serviced in accordance with §§ 766.107 and 766.108, as appropriate.

### § 766.112 Additional security for restructured loans.

(a) If the borrower is delinquent prior to restructuring, the borrower, and all entity members in the case of an enti-

ty, must execute and provide to the Agency a lien on all of their assets, except as provided in paragraph (b) of this section, when the Agency is servicing a loan.

(b) The Agency will take the best lien obtainable on all assets the borrower owns, except:

(1) When taking a lien on such property will prevent the borrower from obtaining credit from other sources;

(2) When the property could have significant environmental problems or costs as described in subpart G of 7 CFR part 1940;

(3) When the Agency cannot obtain a valid lien;

(4) When the property is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation, retirement accounts, personal vehicles necessary for family living, household contents, or small equipment such as hand tools and lawn mowers; or

(5) When a contractor holds title to a livestock or crop enterprise, or the borrower manages the enterprise under a share lease or share agreement.

### § 766.113 Buyout of loan at current market value.

(a) *Borrower eligibility.* A delinquent borrower may buy out the borrower's FLP loans at the current market value of the loan security, including security not in the borrower's possession, and all non-essential assets if:

(1) The borrower has not previously received debt forgiveness on any other FLP direct loan;

(2) The borrower has acted in good faith;

(3) The borrower does not have non-essential assets for which the net recovery value is sufficient to pay the account current;

(4) The borrower is unable to develop a feasible plan through primary loan servicing programs or a Conservation Contract, if requested;

(5) The present value of the restructured loans is less than the net recovery value of Agency security;

(6) The borrower pays the amount required in a lump sum without guaranteed or direct credit from the Agency; and