

§ 766.356

7 CFR Ch. VII (1-1-08 Edition)

(e) *Failure to satisfy the debt.* The Agency will liquidate the borrower's account in accordance with § 766.357 if the borrower does not pay the account in full within the time period specified in the acceleration notice.

§ 766.356 Acceleration of loans to American Indian borrowers.

(a) *General.* (1) The Agency accelerates loans to American Indian borrowers whose real estate is located on an Indian reservation in accordance with this section, unless State law imposes separate restrictions on accelerations.

(2) The Agency accelerates all of the borrower's loans at the same time, regardless of whether each individual loan is delinquent or not.

(3) All borrowers must receive prior notification in accordance with subpart C of this part, except for borrowers who fail to graduate in accordance with § 766.101(a)(8).

(4) At the time of acceleration, the Agency will notify the borrower and the Tribe that has jurisdiction over the Indian reservation of:

(i) The possible outcomes of a foreclosure sale and the potential impacts of those outcomes on rights established under paragraphs (a)(4)(ii) and (iii) of this section;

(ii) The priority for purchase of the property acquired by the Agency through voluntary conveyance or foreclosure;

(iii) Transfer of acquired property to the Secretary of the Interior if the priority of purchase of the property established under paragraph (a)(4)(ii) of this section is not exercised.

(b) *Borrower options.* The Agency will notify an American Indian borrower of the right to:

(1) Request the Tribe, having jurisdiction over the Indian reservation in which the real property is located, be assigned the loan;

(i) The Tribe will have 30 calendar days after the Agency notification of such request to accept the assignment of the loan.

(ii) The Tribe must pay the Agency the lesser of the outstanding Agency indebtedness secured by the real estate or the market value of the property.

(iii) The Tribe may pay the amount in a lump sum or according to the rates, terms and requirements established in part 770 of this chapter, subject to the following:

(A) The Tribe must execute the promissory note and loan documents within 90 calendar days of receipt from the Agency;

(B) Such loan may not be considered for debt writedown under 7 CFR part 770.

(iv) The Tribe's failure to respond to the request for assignment of the loan or to finalize the assignment transaction within the time provided, shall be treated as the Tribe's denial of the request.

(2) Request the loan be assigned to the Secretary of the Interior. The Secretary of the Interior's failure to respond to the request for assignment of the loan or to finalize the assignment transaction, shall be treated as denial of the request;

(3) Voluntarily convey the real estate property to the Agency;

(i) The Agency will conduct an environmental review before accepting voluntary conveyance.

(ii) The Agency will credit the account with the greater of the market value of the real estate or the amount of the debt.

(4) Sell the real estate;

(i) The buyer must have the financial ability to buy the property.

(ii) The sale of the property must be completed within 90 calendar days of the Agency's notification.

(iii) The loan can be transferred and assumed by an eligible buyer.

(5) Pay the FLP debt in full.

(6) Consult with the Tribe that has jurisdiction over the Indian reservation to determine if State or Tribal law provides rights and protections that are more beneficial than those provided under this section.

(c) *Tribe notification.* At the time of acceleration, the Agency will notify the Tribe that has jurisdiction over the Indian reservation in which the property is located, of the:

(1) Sale of the American Indian borrower's property;

(2) Market value of the property;

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(3) Amount the Tribe would be required to pay the Agency for assignment of the loan.

(d) *Partial payments.* The Agency may accept a payment that does not cover the unpaid balance of the accelerated loan if the borrower is in the process of selling security, unless acceptance of the payment would reverse the acceleration.

(e) *Failure to satisfy the debt.* The Agency will liquidate the borrower's account in accordance with § 766.357 if:

(1) The borrower does not pay the account in full within the time period specified in the acceleration notice;

(2) The borrower does not voluntarily convey the property to the Agency;

(3) Neither the Tribe nor the Secretary of the Interior accepts assignment of the borrower's loan.

§ 766.357 Involuntary liquidation of real property and chattel.

(a) *General.* The Agency will liquidate the borrower's security if:

(1) The borrower does not satisfy the account in accordance with §§ 766.355 and 766.356, as appropriate;

(2) The involuntary liquidation is in the Agency's financial interest.

(b) *Foreclosure on loans secured by real property.* (1) The Agency will charge the borrower's account for all recoverable costs incurred in connection with the foreclosure and sale of the property.

(2) If the Agency acquires the foreclosed property, the Agency will credit the borrower's account in the amount of the Agency's bid except when incremental bidding was used, in which case the amount of credit will be the maximum bid that was authorized. If the Agency does not acquire the foreclosed property, the Agency will credit the borrower's account in accordance with State law and guidance from the Regional OGC.

(3) Notwithstanding paragraph (b)(2), for an American Indian borrower whose real property secures an FLP loan and is located within the confines of a Federally-recognized Indian reservation, the Agency will credit the borrower's account in the amount that is the greater of:

(i) The market value of the security; or

(ii) The amount of the FLP debt against the property.

(4) After the date of foreclosure, the borrower or former owner retains no statutory, implied, or inherent right of possession to the property beyond those rights granted by State law.

(5) If an unpaid balance on the FLP loan remains after the foreclosure sale of the property, the Agency may debt settle the account in accordance with subpart B of 7 CFR part 1956.

(c) *Foreclosure of loans secured by chattel.* (1) The Agency will charge the borrower's account for all recoverable costs incurred by the Agency as a result of the repossession and sale of the property.

(2) The Agency will apply the proceeds from the repossession sale to the borrower's account less prior liens and all authorized liquidation costs.

(3) If an unpaid balance on the FLP loan remains after the sale of the repossessed property, the Agency may debt settle the account in accordance with subpart B of 7 CFR part 1956.

§§ 766.358—766.400 [Reserved]

Subpart I—Exception Authority

§ 766.401 Agency exception authority.

On an individual case basis, the Agency may consider granting an exception to any regulatory requirement or policy of this part if:

(a) The exception is not inconsistent with the authorizing statute or other applicable law; and

(b) The Agency's financial interest would be adversely affected by acting in accordance with published regulations or policies and granting the exception would resolve or eliminate the adverse effect upon its financial interest.

PART 767—INVENTORY PROPERTY MANAGEMENT

Subpart A—Overview

Sec.

767.1 Introduction.

767.2 Abbreviations and definitions.

767.3–767.50 [Reserved]