

Farm Service Agency, USDA

§ 766.51

APPENDIX B TO SUBPART C OF PART 766—
FSA-2512, NOTICE OF AVAILABILITY OF
LOAN SERVICING TO BORROWERS WHO ARE
CURRENT, FINANCIALLY DISTRESSED, OR
LESS THAN 90 DAYS PAST DUE

APPENDIX C TO SUBPART C OF PART 766—FSA-
2514, NOTICE OF AVAILABILITY OF LOAN
SERVICING TO BORROWERS IN NON-MONE-
TARY DEFAULT

766.357 Involuntary liquidation of real prop-
erty and chattel.

766.358-766.400 [Reserved]

Subpart I—Exception Authority

766.401 Agency exception authority.

AUTHORITY: 5 U.S.C. 301 and 7 U.S.C. 1981d
and 1989.

SOURCE: 72 FR 63316, Nov. 8, 2007, unless
otherwise noted.

Subpart A—Overview

§ 766.1 Introduction.

(a) This part describes the Agency's
servicing policies for direct loan bor-
rowers who:

- (1) Are financially distressed;
- (2) Are delinquent in paying direct
loans or otherwise in default;
- (3) Have received unauthorized assist-
ance;

(4) Have filed bankruptcy or are in-
volved in other civil or criminal cases
affecting the Agency; or

(5) Have loan security being liq-
uidated voluntarily or involuntarily.

(b) The Agency services direct FLP
loans under the policies contained in
this part.

(1) Youth loans:

(i) May not receive Disaster Set-
Aside under subpart B of this part;

(ii) Will only be considered for re-
scheduling according to § 766.107 and de-
ferred according to § 766.109.

(2) The Agency does not service Non-
program loans under this part except
where noted.

(c) The Agency requires the borrower
to make every reasonable attempt to
make payments and comply with loan
agreements before the Agency con-
siders special servicing.

§ 766.2 Abbreviations and definitions.

Abbreviations and definitions for
terms used in this part are provided in
§ 761.2 of this chapter.

§§ 766.3-766.50 [Reserved]

Subpart B—Disaster Set-Aside

§ 766.51 General.

(a) DSA is available to borrowers
with program loans who suffered losses
as a result of a natural disaster.

Subpart D—Homestead Protection Program

766.151 Applying for Homestead Protection.

766.152 Eligibility.

766.153 Homestead Protection transfer-
ability.

766.154 Homestead Protection leases.

766.155 Conflict with State law.

766.156-766.200 [Reserved]

Subpart E—Servicing Shared Appreciation Agreements and Net Recovery Buyout Agreements

766.201 Shared Appreciation Agreement.

766.202 Determining the shared appreciation
due.

766.203 Payment of recapture.

766.204 Amortization of recapture.

766.205 Shared Appreciation Payment
Agreement rates and terms.

766.206 Net Recovery Buyout Recapture
Agreement.

766.207-766.250 [Reserved]

Subpart F—Unauthorized Assistance

766.251 Repayment of unauthorized assist-
ance.

766.252 Unauthorized assistance resulting
from submission of false information.

766.253 Unauthorized assistance resulting
from submission of inaccurate informa-
tion by borrower or Agency error.

766.254-766.300 [Reserved]

Subpart G—Loan Servicing For Borrowers in Bankruptcy

766.301 Notifying borrower in bankruptcy of
loan servicing.

766.302 Loan servicing application require-
ments for borrowers in bankruptcy.

766.303 Processing loan servicing requests
from borrowers in bankruptcy.

766.304-766.350 [Reserved]

Subpart H—Loan Liquidation

766.351 Liquidation.

766.352 Voluntary sale of real property and
chattel.

766.353 Voluntary conveyance of real prop-
erty.

766.354 Voluntary conveyance of chattel.

766.355 Acceleration of loans.

766.356 Acceleration of loans to American
Indian borrowers.

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(b) DSA is not intended to circumvent other servicing available under this part.

(c) Non-program loans may be serviced under this subpart for borrowers who also have program loans.

§ 766.52 Eligibility.

(a) *Borrower eligibility.* The borrower must meet all of the following requirements to be eligible for a DSA:

(1) The borrower must have operated the farm in a county designated or declared a disaster area or a contiguous county at the time of the disaster. Farmers who have rented out their land base for cash are not operating the farm.

(2) The borrower must have acted in good faith, and the borrower's inability to make the upcoming scheduled loan payments must be for reasons not within the borrower's control.

(3) The borrower cannot have more than one installment set aside on each loan.

(4) As a direct result of the natural disaster, the borrower does not have sufficient income available to pay all family living and farm operating expenses, other creditors, and debts to the Agency. This determination will be based on:

(i) The borrower's actual production, income and expense records for the year the natural disaster occurred;

(ii) Any other records required by the Agency;

(iii) Compensation received for losses; and

(iv) Increased expenses incurred because of the natural disaster.

(5) For the next production cycle, the borrower must develop a feasible plan showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses, and meet scheduled payments on all debts, including FLP debts. The borrower must provide any documentation required to support the farm operating plan.

(6) The borrower must not be in non-monetary default.

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

(8) The borrower must not become 165 days past due before the appropriate Agency DSA documents are executed.

(b) *Loan eligibility.* (1) Any FLP loan to be considered for DSA must have been outstanding at the time the natural disaster occurred.

(2) All of the borrower's program and non-program loans must be current after the Agency completes a DSA of the scheduled installment.

(3) All FLP loans must be current or less than 90 days past due at the time the application for DSA is complete.

(4) The Agency has not accelerated or applied any special servicing action under this part to the loan since the natural disaster occurred.

(5) For any loan that will receive a DSA, the remaining term of the loan must equal or exceed 2 years from the due date of the installment set-aside.

(6) The loan must not have a DSA in place.

§ 766.53 Disaster Set-Aside amount limitations.

(a) The DSA amount is limited to the lesser of:

(1) The first or second scheduled annual installment on the FLP loans due after the disaster occurred; or

(2) The amount the borrower is unable to pay the Agency due to the disaster. Borrowers are required to pay any portion of an installment they are able to pay.

(b) The amount set aside will be the unpaid balance remaining on the installment at the time the DSA is complete. This amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date, taking into consideration any payments applied to principal and interest since the due date.

(c) Recoverable cost items may not be set aside.

§ 766.54 Borrower application requirements.

(a) *Requests for DSA.* (1) A borrower must submit a request for DSA in writing within eight months from the date the natural disaster was designated.

(2) All borrowers must sign the DSA request.