

(b) *Without application by debtor.* Debts may be cancelled upon a favorable recommendation of the servicing official in the following instances:

(1) *Debtors discharged in bankruptcy.* If there is no security for the debt, debts discharged in bankruptcy shall be cancelled by the use of Form FmHA or its successor agency under Public Law 103-354 1956-1 with a copy of the Bankruptcy Court's Discharge Order attached. No attempt will be made to obtain the debtor's signature and County Committee review is unnecessary. If the debtor has executed a new promise to pay prior to discharge and has otherwise accomplished a valid reaffirmation of the debt in accordance with advice from OGC, the debt is not discharged.

(2) *Impossible or impractical to obtain a debtor's signature.* Debts may be cancelled if it is impossible or impractical to obtain a signed application and the requirements of §1956.130(a) (1), (2), and (3) *only* of this subpart are met. Form FmHA or its successor agency under Public Law 103-354 1956-1 will document:

(i) The sources of information obtained.

(ii) That a current effort was made to obtain the debtor's application and the date of such effort.

(iii) The specific reasons why it was impossible or impracticable to obtain the signature of the debtor and, if the debtor refused to sign, the reason(s) given.

(3) *Deceased debtors (individuals only).* The following conditions must exist:

(i) There is no known security,

(ii) An administrator or executor has not been appointed to settle the debtor's estate but the financial condition of the estate has been investigated and it has been established that there is no reasonable prospect of recovery, *or*

(iii) An administrator or executor has been appointed to settle the estate of the debtor, and

(A) A final settlement has been made and confirmed by the probate court and the Government's claim was recognized properly and the Government has received all funds it was entitled to, *or*

(B) A final settlement has not been made and confirmed by the probate court, but there are no assets in the es-

tate from which there is any reasonable prospect of recovery, *or*

(C) Regardless of whether a final settlement has been made, there were assets in the estate from which recovery might have been effected but such assets have been disposed of or lost in a manner which the OGC advises will preclude an reasonable prospect of recovery by the Government.

(4) *Disappeared debtor (individuals only).* The following conditions must exist:

(i) The debtor has disappeared and cannot be found without undue expense. Reasonable efforts either in person or in writing will be made to locate the debtor. These efforts, including the names and dates of contacts, and the information furnished by each person, will be fully documented on Form FmHA or its successor agency under Public Law 103-354 1956-1,

(ii) There is no known security for the debt and the debtor has no other assets from which the debt could be collected, and

(iii) The debtor is unable to pay any part of the debt and has no reasonable prospect of being able to do so.

#### §§ 1956.131-1956.135 [Reserved]

#### § 1956.136 Chargeoff.

(a) *Judgment debts.* Subject to the provisions of §1956.112(d) of this subpart, judgment debts, regardless of the amount, may be charged off without the debtor's signature upon a favorable recommendation of the servicing official provided:

(1) The United States Attorney's file is closed, and

(2) The requirements of §1956.130(b)(1), (2), (3), or (4) of this subpart have been met, as appropriate, or two years have elapsed since any collections were made on the judgment and the debtor(s) has no equity in property on which the judgment is a lien or on which it can presently be made a lien.

(b) *Nonjudgment debts.* Debts which cannot be settled under other sections of this subpart may be charged off without the debtor's signature upon a favorable recommendation of the servicing official in the following instances:

(1) When the OGC advises in writing that the claim is legally without merit, or that evidence necessary to prove the claim in court cannot be produced.

(2) When there is no known security for the debt, the debtor has no other assets from which the debt could be collected, and the debtor:

(i) Is unable to pay any party of the debt and has no reasonable prospect of being able to do so, or

(ii) Is able to pay part or all of the debt but refuses to do so, and an opinion is received from OGC to the effect that the Government cannot enforce collection of a significant amount from assets or income.

(3) When the debtor is deceased (individuals only), disappeared (individuals only), or when it is impossible or impractical to obtain the debtor's signature, and the conditions of § 1956.136(b)(2) of this subpart are met.

**§ 1956.137 Adjustment of unpaid principal—Indian Tribal Land Acquisition loans.**

This section pertains exclusively to the reduction of unpaid principal on Indian Tribal Land Acquisition loans. (Pub. L. 101-82.)

(a) *Application by borrower.* Upon application by the borrower, the FmHA or its successor agency under Public Law 103-354 Administrator may adjust the unpaid principal balance only, on any loan or loans, to the current fair market value of the land purchased with the proceeds of the loans. A separate application will be made for each loan. To be eligible, each application must meet the following conditions:

(1) The current fair market value of the land has declined by at least 25 percent since the land was purchased by the borrower with FmHA or its successor agency under Public Law 103-354 loan funds. Current fair market value shall be determined through an appraisal by an independent qualified fee appraiser, as defined in § 1956.105(j) of this subpart and selected by mutual agreement between the borrower and FmHA or its successor agency under Public Law 103-354. The borrower will submit its selection of an appraiser, together with the appraiser's qualifications, in writing, to FmHA or its successor agency under Public Law 103-354

for acceptance or rejection. The cost of the appraisal shall be paid by the borrower.

(2) The land has been held by the borrower for at least 5 years.

(3) The Secretary of Interior or designee finds, and states in writing to FmHA or its successor agency under Public Law 103-354, that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

(b) *Review of application decision.* If an application is rejected, the borrower may request a review of this decision under subpart B of part 1900 of this chapter.

(c) *Future applications.* A borrower that had a loan adjusted under this section shall not submit an application for another adjustment on the same loan for a period of 5 years from the date the last reduction became effective.

(d) *Processing.* All requests for principal adjustment will be forwarded to the National Office with the following information:

(1) Form FmHA or its successor agency under Public Law 103-354 1956-1. Complete only parts I, II, VI, and VIII. Part VI, Debtors Offer and Certification, will be made in a separate attachment and contain the adjusted unpaid principal amount for which FmHA or its successor agency under Public Law 103-354 approval is requested. In part VI of the form, type "see attached."

(2) Letter from the Secretary of Interior or Designee. Reference to this letter should be made in part VIII of Form FmHA or its successor agency under Public Law 103-354 1956-1.

(3) For first time requests, the State Director's determination of the appraised value of the land when the loan (or loans) was made and the current fair market value appraisal as determined by an independent qualified fee appraiser.

(4) For subsequent requests, the current and previous fair market value appraisal as determined by an independent qualified fee appraiser.

(5) Draft of Form FmHA or its successor agency under Public Law 103-354 1951-33, "Reamortization Request," if applicable. Upon concurrence by the National Office, the adjusted unpaid