

Subpart K—Debt Management— Regulations for the 1986 and Succeeding Crop Years

AUTHORITY: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

SOURCE: 51 FR 17316, May 12, 1986, unless otherwise noted.

§ 400.115 Purpose.

This subpart sets forth procedures that will be followed, and the rights afforded to debtors, in connection with the reporting by the Federal Crop Insurance Corporation (FCIC) to credit reporting agencies of information with respect to current and delinquent debts owed to FCIC, and in connection with referral of delinquent debts to contract collection agencies.

§ 400.116 Definitions.

(a) *Credit reporting agency* means (1) a reporting agency as defined at 4 CFR 102.5(a), or (2) any entity which has entered into an agreement with USDA concerning the referral of credit information.

(b) *Collection agency* means a private debt collection contractor under Federal Supply Schedule contract with the General Services Administration (GSA) for professional debt collection services.

(c) *Comptroller* means the employee of FCIC filling that position or the person designated by the Comptroller to perform that function.

(d) *Debt and claim* are deemed synonymous and are used interchangeably herein. The debt or claim is an amount of money which has been determined by an appropriate agency official to be owed to FCIC by any individual, organization or entity, except another Federal agency; State, local or foreign government or agencies thereof; Indian tribal governments; or other public institutions.

The debt or claim may have arisen from overpayment, premium non-payment, interest, penalties, reclamations resulting from payments under good faith reliance provisions, or other causes.

(e) *Delinquent debt* means (1) any debt owed to FCIC that has not been paid by the termination date specified in the

applicable contract of insurance, or other due date for payment contained in any other agreement, or notification of indebtedness, and (2) any overdue amount owed to FCIC by a debtor which is the subject of an installment payment agreement which the debtor has failed to satisfy under the terms of such agreement.

(f) *System of records* means a group of any records under the control of FCIC from which information is retrieved by the name of the individual by some identifying number, symbol, or other identification assigned to the individual.

(g) *Request for review* means that request submitted to FCIC by a debtor for a review of the facts resulting in the determination of indebtedness to FCIC. FCIC allows 45 days for such request and any request submitted within that period is considered a timely request.

§ 400.117 Determination of delinquency.

Prior to disclosing information about a debt to a credit reporting agency in accordance with this subpart, the FCIC claims official, designated as the Comptroller, FCIC, or the designee of the Comptroller who has jurisdiction over the claim, shall review the claim and determine that the claim is valid and overdue.

§ 400.118 Demand for payment.

The Comptroller who is responsible for carrying out the provisions of this subpart with respect to the debt shall send to the debtor appropriate written demands for payment in terms which inform the debtor of the consequences of failure to make payment, in accordance with guidelines established by the Manager, FCIC, the Federal Claims Collection Standards at 4 CFR 102.2, or the contract between the General Services Administration (GSA) and the collection agency.

§ 400.119 Notice to debtor; credit reporting agency.

(a) In accordance with guidelines established by the Manager, FCIC, the Comptroller who is responsible for disclosure of information with respect to delinquent debts to a credit reporting

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agency shall send written notice to the delinquent debtors that FCIC intends to disclose credit information to a credit reporting agency on a regular basis. In addition, delinquent debtors are to be informed:

- (1) Of the basis for the indebtedness;
 - (2) That the payment is overdue;
 - (3) That FCIC intends to disclose to a credit reporting agency that the debtor is responsible for the debt and with respect to an individual, that such disclosure shall be made not less than 60 days after notification to such debtor;
 - (4) Of the specific information intended to be disclosed to the credit reporting agency;
 - (5) Of the rights of such debtor to a full explanation of the claim and to dispute any information in the system of records of FCIC concerning the claim;
 - (6) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and
 - (7) Of the date after which the information will be reported to the credit reporting agency.
- (b) The content and standards for demand letters and notices sent under this section shall be consistent with the Federal Claims Collection Standards at 4 CFR 102.2.

§ 400.120 Subsequent disclosure and verification.

- (a) FCIC shall promptly notify each credit reporting agency to which the original disclosure of debt information was made of any substantial change in the condition or amount of the claim. A substantial change in condition may include, but is not limited to, notice of death, cessation of business, or relocation of the debtor. A substantial change in the amount may include, but is not limited to, payments received, additional amounts due, or offsets made with respect to the debt.
- (b) FCIC shall promptly verify or correct, as appropriate, information about the claim or request of such credit reporting agency for verification of any or all information so disclosed. The records of the debtor shall reflect any correction resulting from such request.
- (c) FCIC shall obtain satisfactory assurances from each reporting agency to

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which information will be provided that the agency is in compliance with the provisions of all laws and regulations of the United States relating to providing credit information.

§ 400.121 Information disclosure limitations.

FCIC shall limit delinquent debt information disclosed to credit reporting agencies to:

- (a) The name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor;
- (b) The amount, status, and history of the claim; and
- (c) The FCIC program under which the claim arose.

§ 400.122 Attempts to locate debtor.

Before disclosing delinquent debt information to a credit reporting agency, FCIC shall take reasonable action to locate a debtor for whom FCIC does not have a current address in order to send the notification in accordance with § 400.119 of this subpart.

§ 400.123 Request for review of the indebtedness.

- (a) Before disclosing delinquent debt information to a credit reporting agency, FCIC shall, upon request of the debtor, provide for a review of the claim, including an opportunity for reconsideration of the initial decision concerning the existence or amount of the claim, in accordance with applicable administrative appeal procedures.
- (b) Upon receipt of a timely request for review, FCIC shall suspend its schedule for disclosure of delinquent debt information to a credit reporting agency until such time as a final decision is made on the request.
- (c) Upon completion of the review, the reviewing office shall transmit to the debtor a written notification of the decision. If appropriate, notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to the credit reporting agency. The notification shall, if appropriate, also indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.