

§ 1956.148

7 CFR Ch. XVIII (1-1-03 Edition)

Director has the authority to reject the debt settlement.

(3) Loans and claims with an outstanding balance over \$200,000, inclusive of interest, penalties, and administrative costs, will be referred to the Administrator and will include the following:

- (i) The case file(s).
- (ii) A completed CCLR.
- (iii) Copies of the notes, security agreements, and mortgages.
- (iv) A current appraisal of any security owned by the debtor.
- (v) A narrative which will include:
 - (A) Recommendation for the acceptance of the debt settlement.
 - (B) The type of loan involved, a short history of the loan, and why the debtor failed.
 - (C) Steps taken to collect the loan(s).
 - (D) An analysis of the debtor's future repayment ability. This should discuss if the debtor has any other assets or has concealed or improperly transferred assets, if known. If the debtor is an individual, this should include consideration of the debtor's present and potential income and inheritance prospects.
 - (E) Why acceptance of the debt settlement offer is in the best interest of the Government.

(4) If the Administrator concurs with the recommendation for the debt settlement, it will be referred by the FmHA or its successor agency under Public Law 103-354 National Office to OGC for referral to the Commercial Litigation Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530.

(b) When a debtor has a Community Programs or Business and Industry loans(s) and defined in this subpart, these loan(s) will be debt settled under the authority of the Consolidated Farm and Rural Development Act. In such cases, the subject loans and claims should be listed under part II(B) on Form FmHA or its successor agency under Public Law 103-354 1956-1, as other debts owed FmHA or its successor agency under Public Law 103-354. Normally, all the security for the subject loans and claims should be disposed of prior to the submission for debt settlement.

(c) It is not necessary to obtain approval of the United States Attorney or the DOJ (as the case may be) in cases where FmHA or its successor agency under Public Law 103-354 decides not to settle a loan or claim.

[55 FR 30197, July 25, 1990, as amended at 59 FR 46162, Sept. 7, 1994]

§ 1956.148 Exception authority.

The Administrator may make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted. Any settlement actions approved by the Administrator under this section will be documented on Form FmHA or its successor agency under Public Law 103-354 1956-1 and returned to the State Office for submission to the Finance Office.

§ 1956.149 [Reserved]

§ 1956.150 OMB control number.

The reporting requirements contained in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0124. Public reporting burden for this collection of information is estimated to vary from ½ hour to 30 hours per response with an average of 8.14 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, D.C. 20250; and to the Office of Information and

RHS, RBS, RUS, FSA, USDA

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Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[59 FR 46162, Sept. 7, 1994]

PART 1957—ASSET SALES

Subpart A—Rural Housing Asset Sales

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- 1957.7–1957.50 [Reserved]

AUTHORITY: Pub. L. 99–509, sec 2001(b)(1).

SOURCE: 54 FR 47958, Nov. 20, 1989, unless otherwise noted.

Subpart A—Rural Housing Asset Sales

§ 1957.1 General.

Pursuant to the Omnibus Budget Reconciliation Act of 1986, Public Law 99–509, the Farmers Home Administration or its successor agency under Public Law 103–354 sold certain of the portfolio of loans made under section 502 of the Housing Act of 1949 to the Rural Housing Trust, 1987–1. The sale was without recourse to FmHA or its successor agency under Public Law 103–354 except for certain provisions providing for FmHA or its successor agency under Public Law 103–354's payment of interest credit amounts and agreement to compensate the Rural Housing Trust 1987–1 for future cash flow changes due to revised borrowers rights as set forth in FmHA or its successor agency under Public Law 103–354 regulations. The sale documents to Rural Housing Trust 1987–1 recognize that the FmHA or its successor agency under Public Law 103–354 loans were assigned subject to rights provided to these borrowers under documentation to recognize the rights of FmHA or its successor agency under Public Law 103–354 borrowers under regulations of FmHA or its successor agency under Public Law 103–354 as they may exist from time to time and to service the loans in accordance with then current FmHA or its successor agency under Public Law 103–354 regulations. In addition, as provided in

§1957.6 of this subpart, FmHA or its successor agency under Public Law 103–354 has retained review, but not hearing authority under the FmHA or its successor agency under Public Law 103–354 Appeal Procedure, 7 CFR part 1900, Subpart B. Failure of private servicers to comply with FmHA or its successor agency under Public Law 103–354 regulations in servicing loans sold to the Rural Housing Trust 1987–1 may be redressed in the review process under the Appeal Procedure.

§ 1957.2 Transfer with assumptions.

FmHA or its successor agency under Public Law 103–354 regulations governing transfers and assumptions will not apply to these loans. Individuals who what to purchase property securing a loan held by the Rural Housing Trust 1987–1, and who are eligible for an FmHA or its successor agency under Public Law 103–354 §502 loan will be given the same priority by FmHA or its successor agency under Public Law 103–354 as a transferee of a §502 loan if the property is then suitable for the FmHA or its successor agency under Public Law 103–354 RH program and is located in an eligible area. The Master Servicer of the Rural Housing Trust, 1987–1, may permit an assumption if it is deemed by the Master Servicer to be in the financial interest of the Trust, but in such case the transferee would not be eligible for FmHA or its successor agency under Public Law 103–354 loan servicing benefits under FmHA or its successor agency under Public Law 103–354 regulations.

§ 1957.3 [Reserved]

§ 1957.4 Graduation.

Borrowers will not be required to graduate to other credit.

§ 1957.5 [Reserved]

§ 1957.6 Appeal reviews.

The Master Servicer, acting through its subservicer, will have the responsibility to conduct hearings under the appeal process. Final review of an adverse decision upheld under the appeal process will remain with FmHA or its successor agency under Public Law 103–354 and be conducted by the Agency's