

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

(2) *Disappeared debtors.* The debt may be canceled without application where the debtor has no known assets or future debt-paying ability, has disappeared and cannot be found without undue expense, and there is no existing security for the debt. Reasonable efforts will be made to locate the debtor. These efforts will generally include contacts, either in person or in writing, with postmasters, motor vehicle licensing and title authorities, telephone directories, city directories, utility companies, State and local governmental agencies, other Federal agencies, employees, friends, and credit agency skip locate reports, known relatives, neighbors and County Committee members. Also, the debtor's loan file should be reviewed carefully for possible leads that may be of assistance in locating the debtor. The efforts made to locate the debtor, including the names and dates of contacts, and the information furnished by each person, will be fully documented in the appropriate space on Form FmHA or its successor agency under Public Law 103-354 1956-1 or Form FmHA or its successor agency under Public Law 103-354 1956-2 for housing loans.

(3) *Debtors discharged in bankruptcy.* If there is no security for the debt, debts discharged in bankruptcy shall be canceled by the use of Form FmHA or its successor agency under Public Law 103-354 1956-1 or Form FmHA or its successor agency under Public Law 103-354 1956-2, for housing loans, with attachments as below. 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.

(i) Chapter 7 Bankruptcy cases will be documented with a copy of the

"Discharge of Debtor" order(s) by the court for all obligors.

(ii) For debts identified as being part of an unsecured claim under Chapter 11, the cancellation will be documented with a copy of the organization plan, copy of the order by the court confirming the plan, a copy of the order completing the plan (a similar order), and an opinion by OGC that the confirming order has discharged the obligor(s) of liability to that part of the debt.

(iii) For debts identified as being part of an unsecured claim under chapters 12 or 13, the cancellation will be documented with a copy of the reorganization plan and confirmation order, as above, a copy of the order completing the plan and closing the case, and an opinion by OGC that the completion order has discharged the obligor(s) of liability to that portion of the debt.

(c) *Signature of debtor cannot be obtained.* Debts of a living debtor may be canceled if it is impossible or impracticable to obtain a signed application and the requirements in paragraph (a) of this section concerning cancellation with application have been met or if the debt has been discharged in bankruptcy and there is no security. Form FmHA or its successor agency under Public Law 103-354 1956-1 will state:

(1) The sources of information obtained.

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

(3) 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.

**§ 1956.71 Settling uncollectible recapture receivables.**

The settlement of uncollectible recapture receivables will be fully documented on a debt settlement form and retained in the case file.

[58 FR 21345, Apr. 21, 1993]

**§§ 1956.72-1956.74 [Reserved]**

**§ 1956.75 Chargeoff.**

(a) *Judgment debts.* Subject to the provisions of § 1956.57(g)(3), judgment debts may be charged off by use of Form

FmHA or its successor agency under Public Law 103-354 1956-1 or Form FmHA or its successor agency under Public Law 103-354 1956-2 for housing upon a report and favorable recommendation of the employee in charge of the account provided:

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

(2) The requirements of §1956.70(b)(2) have been met, 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 using Form FmHA or its successor agency under Public Law 103-354 1956-1 or Form FmHA or its successor agency under Public Law 103-354 1956-2 for housing loans without the debtor's signature subject to the following provisions:

(1) When the principal balance is \$2,000 or less and efforts to collect have been unsuccessful or it is apparent that further collection efforts would be ineffectual or uneconomical,

(2) When the OGC advises in writing that the claim is legally without merit.

(3) Even though FmHA or its successor agency under Public Law 103-354 considers the claim to be valid, when efforts to induce voluntary payments are unsuccessful and the OGC advises in writing that evidence necessary to prove the claim in court cannot be produced, or

(4) When the employee in charge of the account recommends the chargeoff and has made the following determinations on the basis of information in FmHA or its successor agency under Public Law 103-354's official files or from other informed reliable sources:

(i) That the debtor is:

(A) Unable to pay any part of the debt and has no apparent future debt repayment ability as specified in §1956.66(a); or

(B) Able to pay part or all of the debt but is unwilling to do so, it is clear that the Government cannot enforce collection of a significant amount from assets or income, and an opinion is received from OGC to that effect; and

(ii) There is no security for the debt.

(c) For debts identified as being part of an unsecured claim under a confirmed Chapter 11 plan, the chargeoff will be documented with a copy of the organization plan, a copy of the court order confirming the plan, an opinion by OGC that the order confirming the plan has discharged the debtor(s) of liability on the unsecured part of the debt.

#### §§ 1956.76-1956.83 [Reserved]

#### § 1956.84 Approval or rejection.

(a)-(d) [Reserved]

(e) *Appeal rights.* A debtor whose debt settlement offer is rejected will be notified of appeal rights pursuant to subpart B of part 1900 of this chapter. In cases where the adverse decision maker is the County Committee, the FmHA or its successor agency under Public Law 103-354 official will advise the debtor of appeal rights. If the debtor exercises his/her right to a meeting, the County Committee must meet with the debtor. If the meeting does not result in a resolution, the debtor may exercise his/her right to a hearing. If the hearing officer reverses the adverse County Committee decision, the case will be forwarded to the appropriate debt settlement approval official for consideration of approval.

[58 FR 21345, Apr. 21, 1993]

#### § 1956.85 Payments and receipts.

(a) *Servicing office handling.* (1) An application with which the debtor offers a lump-sum payment in compromise, or with which the debtor offers an initial payment on an adjustment offer, will be accompanied by the payments required at the time such application is filed in the servicing office.

(2) Except as provided in paragraph (a)(3) of this section, payments offered by debtors in settlement of debts will be deposited and transmitted as required in subpart B, C, and K of part 1951 of this chapter.

(3) Checks or check transmittal letter containing restrictive notations such as "Settlement in full" or "Payment in full," or in those exceptional instances when the debtor refuses to sign the Form FmHA or its successor agency under Public Law 103-354 1956-1