

and on the recommendation of the appropriate program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse affect on the Government's interest, propose alternative courses of action, and show how the adverse affect 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.

**§ 1956.100 OMB control number.**

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0118. Public reporting burden for this collection of information is estimated to vary from 15 to 20 minutes per response, with an average of 20 minutes per response including 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

**Subpart C—Debt Settlement—Community and Business Programs**

SOURCE: 53 FR 13100, Apr. 21, 1988, unless otherwise noted.

**§ 1956.101 Purpose.**

This subpart delegates authority and prescribes policies and procedures for debt settlement of Community Facility loans; Association Recreation loans; Rural Renewal loans; direct Business and Industry loans; and Shift-in-land-use loans. Settlement of Economic Opportunity Cooperative loans, Claims

Against Third Party Converters, Non-program loans, Rural Business Enterprise/Television Demonstration Grants, Rural Development Loan Fund loans, Intermediary Relending Program loans, Nonprofit National Corporations Loans and Grants, and 601 Energy Impact Assistance Grants, is not authorized under independent statutory authority, and settlement under these programs is handled pursuant to the Federal Claims Collection Joint Standards, 4 CFR parts 101-105, as described in § 1956.147 of this subpart. In addition, this subpart does not apply to Water and Waste Programs of the Rural Utilities Service, Watershed loans, and Resource Conservation and Development loans, which are serviced under part 1782 of this title.

[72 FR 55019, Sept. 28, 2007]

**§ 1956.102 Application of policies.**

(a) *General.* If a debt is eligible for settlement, the debt settlement authorities of the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) should be explained and the privileges thereof extended to the debtor. All debtors are entitled to impartial treatment and uniform consideration under this subpart. Accordingly, FmHA or its successor agency under Public Law 103-354 personnel charged with any responsibility in connection with debt settlement will adhere strictly to the authorizations, requirements, and limitations in this subpart.

(b) *For hospitals and health care facilities only.* Loan servicing and debt restructuring options according to § 1956.143 of this subpart must be exhausted before the other settlement authorities of this subpart are applicable.

[53 FR 13100, Apr. 21, 1988, as amended at 59 FR 46160, Sept. 7, 1994]

**§§ 1956.103-1956.104 [Reserved]**

**§ 1956.105 Definitions.**

(a) *Settlement.* The compromise, adjustment, cancellation, or chargeoff of a debt owed to FmHA or its successor agency under Public Law 103-354. The

term “settlement” is used for convenience in referring to compromise, adjustment, cancellation, or chargeoff actions, individually or collectively.

(b) *Compromise*. The satisfaction of a debt, including a release of liability, by the acceptance of a lump-sum payment of less than the total amount owed on the debt.

(c) *Adjustment*. The satisfaction of a debt, including a release of liability, when acceptance is conditioned upon completion of payment of the adjusted amount at a specific future time or times, with or without the payment of any consideration when the adjustment offer is approved. An adjustment is not a final settlement until all payments under the adjustment agreement have been made.

(d) *Cancellation*. The final discharge of a debt with a release of liability.

(e) *Chargeoff*. To write off a debt and terminate all servicing activity *without* a release of liability. This is not a final discharge of the debt, but rather a decision upon the part of the agency to remove the debt from agency receivables.

(f) *Debtor*. The borrower of loan funds under any of the FmHA or its successor agency under Public Law 103–354 programs specified in §1956.101 of this subpart.

(g) *Security*. All that serves as collateral for the FmHA or its successor agency under Public Law 103–354 loan(s), including, but not limited to, revenues, tax levies, municipal bonds, and real and chattel property.

(h) *Servicing official*. The FmHA or its successor agency under Public Law 103–354 official who is primarily responsible for servicing the account.

(i) *United States Attorney*. An attorney for the United States Department of Justice.

(j) *Independent Qualified Fee Appraiser*. An individual who is a designated member of the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, or an equivalent organization, requiring appraisal education, testing, and experience.

[53 FR 13100, Apr. 21, 1988, as amended at 54 FR 47510, Nov. 15, 1989; 66 FR 1569, Jan. 9, 2001]

§§ 1956.106–1956.108 [Reserved]

§ 1956.109 General requirements for debt settlement.

(a) *Debt due and payable*. The debt or any extension thereof on which settlement is requested must be due and payable under the terms of the note or other instrument, or because of acceleration by written notice prior to the date of application for settlement, unless the debt is to be cancelled without application under §1956.130(b) or charged off under §1956.136 of this subpart.

(b) *Disposition of security*. Ordinarily, all security will be disposed of prior to the date of application for settlement. There are exceptions:

(1) It may be necessary to abandon security through the debt settlement process. For example, a community may be rendered uninhabitable by a toxic or hazardous substance. In such cases, debt settlement may proceed provided the servicing official determines:

(i) That further collection efforts with respect to the security in question would be ineffective or uneconomical,

(ii) That it is in the best interests of the Government to proceed with debt settlement,

(iii) That the proposal otherwise meets the requirements appropriate to the type of settlement under consideration, and

(iv) The approval of the Administrator is obtained.

(2) A servicing action may have been carried out which resulted in a less than complete disposition of security. For example, the Government may have consented to a voluntary sale of a debtor’s real and chattel property without reference to other security, which might include, but is not limited to: an additional lien on revenue, a third party pledge of security, or a pledge of personal liability. In such cases, debt settlement may proceed provided the requirements of §1956.109(b)(1) of this subpart are met.

(3) Security can be retained under the compromise and adjustment offers as specified in §1956.124 of this subpart.

(4) Settlement of a claim against an estate will be based on the recovery