

§§ 1956.131-1956.135

7 CFR Ch. XVIII (1-1-08 Edition)

(1) The servicing official furnishes a favorable recommendation concerning the cancellation, and

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

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

(4) The debt or any extension thereof is 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.

(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 debt-

or'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 estate 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 any 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 [Reserved]

§ 1956.138 Processing.

(a) *Approval.* When a debt settlement application is approved, the State Director will:

(1) Send the original approved Form FmHA or its successor agency under Public Law 103-354 1956-1 to the Finance Office.

(2) Notify debtors in writing of settlement approval, including the specific amount and terms of the offer that were accepted, for compromise and adjustment offers under § 1956.124 and cancellations with application under § 1956.130(a) of this subpart.

(3) Not be required to notify debtors of settlement approval when debts are

cancelled without application under § 1956.130(b) or charged off under § 1956.136 of this subpart.

(b) *Requesting additional information.* When rejection appears to be necessary either because of lack of information or because the amount of a compromise or adjustment offer is inadequate, the State Director may request the servicing official to obtain the additional information or make an effort to obtain a more acceptable offer, as the circumstances justify. Notice of rejection of an offer will be withheld in such cases until sufficient time has elapsed to enable the debtor to present further information or a new offer.

(c) *Rejection.* When a debt settlement application is rejected, the State Director will:

(1) Insert the reasons for rejection on the Form FmHA or its successor agency under Public Law 103-354 1956-1.

(2) Retain the original Form FmHA or its successor agency under Public Law 103-354 1956-1 in the State Office and return case files and copies of Form FmHA or its successor agency under Public Law 103-354 1956-1 to the servicing official.

(3) Request the Finance Office to return any adjustment or compromise payment held by the Finance Office to the borrower, in care of the servicing official.

(4) Return any adjustment or compromise payment held by the State Office to the borrower, in care of the servicing official.

(5) Notify the debtor in writing of the reasons for the rejection for compromise and adjustment offers under § 1956.124 and cancellations with application under § 1956.130(a) of this subpart.

(d) *Appeal rights.* In accordance with Subpart B of Part 1900 of this chapter, the debtor will be given the right to appeal the rejection of any debt settlement offer made by the debtor under this subpart.

§ 1956.139 Collections.

(a) When the debtor offers a lump-sum payment in compromise or an initial payment on an adjustment offer,