

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 that may reasonably be expected, taking into consideration such items as the security, costs of administration, allowances of minor children and surviving spouse, allowable funeral expenses, dower and curtesy rights, and specific encumbrances on the property having priority over claims of the Government.

(c) *Proceeds from the sale of security.* Proceeds from the sale of security must be applied on the debtor's account, taking into consideration the disposition requirements of any grant agreement, prior to the date of application for settlement, except when security is retained as provided for in § 1956.109(b) of this subpart. Debtors will not be allowed to sell security and use the proceeds as part or all of the debt settlement offer.

(d) *County Committee review.* Proposed settlement actions will be reviewed by the County Committee except for the cancellation of debts discharged in bankruptcy under § 1956.130(b)(1) of this subpart or when a claim has been referred to a United States Attorney under § 1956.112(d) of this subpart. No settlement shall be approved if it is more favorable to the debtor than recommended by the County Committee.

(e) *Assistance from Office of General Counsel (OGC).* When necessary, State Directors will obtain advice from OGC in handling proposed debt settlement actions.

(f) *Format.* Form FmHA or its successor agency under Public Law 103-354 1956-1, "Application for Settlement of Indebtedness," will be utilized for all settlement actions under this subpart.

§ 1956.110 Joint debtors.

Settlements may not be approved for one joint debtor unless approved for all debtors. Joint debtors includes all parties, individuals, and organizations, who are legally liable for payment of the debt.

§ 1956.111

(a) Individual settlement offers from joint debtors can be accepted and processed only as a joint offer. A separate Form FmHA or its successor agency under Public Law 103-354 1956-1 will be completed by each debtor unless the debtors are members of the same family and all necessary financial information on each debtor can be shown clearly on a single application.

(b) If one of the joint debtors is deceased or has received a discharge of the debt in bankruptcy, or if the whereabouts of one of the debtors is unknown, or it is otherwise impossible or impractical to obtain the signature of the debtor, the application for settlement may be accepted without that debtor's signature if it contains adequate information on each of the debtors to justify settlement of the debt as to each of the debtors. The name of the debtor requesting settlement will be shown at the top of Form FmHA or its successor agency under Public Law 103-354 1956-1 followed by name and status of the other debtor. For example, "John Doe, joint debtor with Jane Doe, deceased."

(c) Joint debtors must be advised in writing that all debtors will remain liable for the balance of the debt until any payment(s) due under the joint offer have been made.

§ 1956.111 Debtors in bankruptcy.

FmHA or its successor agency under Public Law 103-354 personnel will process reorganization plans of debtors filing under Chapter 9, Chapter 11, or Chapter 13 as follows:

(a) Plans submitted by debtors under Chapters 9, 11, and 13 must be sent by the servicing official to the State Director who will recommend either acceptance or rejection of the plans and refer them to the United States Attorney through OGC. When the plan calls for the adjustment of a debt to FmHA or its successor agency under Public Law 103-354, the State Director will obtain the advice of the Administrator before providing OGC with a recommendation on acceptance or rejection of this plan.

(b) The United States Attorney will advise the State Director, through OGC, as to approval or rejection of the debtor's reorganization plan. The State

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Director will then notify the Finance Office by memorandum of the terms and conditions of the bankruptcy reorganization plan, including any adjustment of the debt.

§ 1956.112 Debts ineligible for settlement.

Debts will not be settled:

(a) If referral to the Office of Inspector General (OIG) and/or to the OGC is contemplated or pending because of suspected criminal violation, or

(b) If civil action to protect the interests of the Government is contemplated or pending, or

(c) If an investigation for suspected fiscal irregularity is contemplated or pending, or

(d) When a claim has been referred to or a judgment has been obtained by the United States Attorney and the debtor requests settlement, the servicing official will explain to the debtor that the United States Attorney has exclusive jurisdiction over the claim or judgment, and therefore, FmHA or its successor agency under Public Law 103-354 has no authority to agree to a settlement offer. If the debtor wishes to make a settlement offer, it must be submitted with any related payment directly to the United States Attorney for consideration.

§§ 1956.113-1956.117 [Reserved]

§ 1956.118 Approval authority.

District Directors cannot approve debt settlement actions. Therefore, they will make no statements to a debtor concerning the action that may be taken upon a debtor's application. Subject to this subpart, the compromise, adjustment, cancellation, or chargeoff of debts will be approved or rejected:

(a) By the State Director when the outstanding balance of the indebtedness involved in the settlement is less than \$50,000, including principal, interest, and other charges.

(b) By the Administrator or his designee when the outstanding balance of the indebtedness involved in the settlement is \$50,000 or more, including principal, interest, and other charges.