



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2517 (1956)
April 9, 1992

SUBJECT: Debt Settlement of Nonprogram, Economic Opportunity Loans, and Claims Against Third-Party Converters

TO: All State Directors, State Directors-at-Large, District Directors, and County Supervisors, FmHA

Purpose/Intended Outcome:

This Administrative Notice (AN) will provide guidance on how to debt settle the subject accounts and claims. The subject loans and claims are those which FmHA does not have any legal authority to settle under the CONACT or the Housing Act of 1949. Settlement of these loans and claims falls under the Federal Claims Collection Act. The Department of Justice and the General Accounting Office are charged with the responsibility for implementing the Federal Claims Collection Act and have promulgated the Federal Claims Collection Act Joint Standards to inform Government agencies on how to settle debts and claims which the agency does not have or has not exercised independent statutory authority to settle. With the exception of loans and claims with outstanding principal balances of \$100,000 or less, settlements must be submitted to and approved by the United States Attorney or the Department of Justice.

Comparison with Previous AN:

This AN replaces expired AN 1671, dated November 12, 1987, which was the last guidance on this subject. This AN provides a revised and updated approval authority.

Implementation Responsibilities:

Debt settlement of the subject loans and claims falls in the following categories:

1. Loans and claims less than \$100,000

Settlement of loans and claims of less than \$100,000, exclusive of interest, penalties and administrative costs, may be approved by the Administrator. These loans and claims will be submitted to the National Office on Form FmHA 1956-1 for debt settlement.

Expiration Date: February 28, 1993

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1956-B



Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

2. Loans and claims of \$100,000 to \$500,000.

Loans and claims of greater than \$100,000 but less than \$500,000, exclusive of interest, penalties and administrative costs, approved by the State Director, will be referred to your Office of the General Counsel (OGC) for referral to the U.S. Attorney in whose judicial district the debtor can be found. The form to be used is the Claims Collection Litigation Report (CCLR) which is available through the U.S. Attorney. A memorandum from the State Director recommending acceptance of the debt settlement should be attached to the CCLR. The State Director does have the authority to reject the settlement.

3. Loans and claims over \$500,000

Loans and claims over \$500,000, exclusive of interest, penalties and administrative costs, will be referred to the Administrator. The referral package will include the following:

- a. The case file(s).
- b. A completed CCLR.
- c. Copies of the notes, security agreements and mortgages.
- d. A current appraisal of any security owned by the borrower.
- e. A current credit report. If it is an entity, a credit report should be obtained for the entity and also for each individual.
- f. Indicate that the offset program outlined in FmHA Instruction 1951-C has been considered as a tool in collecting the indebtedness.
- g. A current Farm and Home Plan if the borrower is farming or a business analysis if in business.
- h. Income tax forms if available.
- i. A narrative which will include:
 1. Recommendation for the acceptance of the debt settlement.
 2. Why the borrower failed.
 3. Steps taken to collect the loan(s).

4. An analysis of the debtor's future repayment ability.

5. Why acceptance of the debt settlement offer is in the best interest of FmHA.

If the Administrator concurs with the recommendation for the debt settlement, it will be referred to the FmHA National Office OGC for referral to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530.

Nonprogram borrowers who have been discharged through Chapter 7 bankruptcy can be debt settled by the State Director in accordance with the approval authority in FmHA Instruction 1956-B, and the unnumbered letter dated October 17, 1991. Decisions involving nonprogram loans are not appealable.

It is not necessary to obtain approval of the U.S. Attorney or the Department of Justice in cases where FmHA decides not to settle a loan or claim.

ANY REVISIONS OR MODIFICATIONS TO THIS AN THAT YOU WISH TO PUBLISH AS A STATE DIRECTIVE MUST BE SUBMITTED AND APPROVED BY THE ASSISTANT ADMINISTRATOR OF FARMER PROGRAMS BEFORE IT IS RELEASED FOR IMPLEMENTATION IN YOUR STATE. THE ONLY EXCEPTION TO THIS REQUIREMENT IS WHEN THE REVISION OR MODIFICATION IS NECESSARY FOR COMPLIANCE WITH STATE LAW.

If you have questions or need further information, you may contact Charles Thompson, Farmer Programs Loan Servicing and Property Management Division, at 690-4011.



LA VERNE AUSMAN
Administrator

Sent by Time Delay Option to States at 2:00 pm on 4/13/92; to Districts at 4:00 pm on 4/13/92; and Counties at 8:00 am on 4/14/92 by GSS.