

§ 1956.144

7 CFR Ch. XVIII (1-1-09 Edition)

354 Office). The original of Form FmHA or its successor agency under Public Law 103-354 1956-1, with appropriate attachments signed by the State Director, and a copy of the Shared Appreciation Agreement will be sent to the Finance Office. Note: All documents pertaining to this transaction will be sent to the Finance Office in one single complete package; and

(2) *Acceptance by debtor to pay off loan at the recovery value.* Processing of this transaction will be in accordance with § 1956.124 of this subpart. However, the account does not need to be accelerated. The debtor will be required to execute a Net Recovery Buy Out Recapture Agreement, similar to that found in Guide 5 of this subpart (available in any FmHA or its successor agency under Public Law 103-354 Office). The original of Form FmHA or its successor agency under Public Law 103-354 1956-1, with appropriate attachments signed by the State Director, and a copy of the recorded Net Recovery Buy Out Recapture Agreement will be sent to the Finance Office. The executed Net Recovery Buy Out Recapture Agreement will be recorded in the county in which the facility is located. The Finance Office will credit the accounts of debtors who entered into Net Recovery Buy Out Recapture Agreements with the amount paid by the debtor (net recovery value). Note: All documents pertaining to this transaction will be sent to the Finance Office in one single complete package.

(g) *Collection and processing of recapture.* (1) When FmHA or its successor agency under Public Law 103-354 becomes aware of the sale or transfer of title to the facility on which there is an effective Net Recovery Buy Out Recapture Agreement (Guide 5 of this subpart available in any FmHA or its successor agency under Public Law 103-354 Office) or a Shared Appreciation Agreement (Guide 4 of this subpart available in any FmHA or its successor agency under Public Law 103-354 Office) outstanding and a determination is made that a recapture is appropriate, FmHA or its successor agency under Public Law 103-354 will notify the debtor of the following:

(i) Date and amount of recapture due; and

(ii) FmHA or its successor agency under Public Law 103-354 action to be taken if debtor does not respond within the designated timeframe with the amount of recapture due.

(2) [Reserved]

(3) When the amount of the recapture has been paid and credited to the debtor's account, the debtor will be released from liability by using Form FmHA or its successor agency under Public Law 103-354 1965-8, "Release from Personal Liability," modified as appropriate.

(h) *No recapture due.* If FmHA or its successor agency under Public Law 103-354 determines there is no recapture due, the Net Recovery Buy Out Recapture Agreement (Guide 5 of this subpart available in any FmHA or its successor agency under Public Law 103-354 Office) or Shared Appreciation Agreement (Guide 4 of this subpart available in any FmHA or its successor agency under Public Law 103-354 Office) will be appropriately annotated, the Recapture Agreement released from the record, and the Agreement returned to the debtor.

[59 FR 46160, Sept. 7, 1994, as amended at 68 FR 61332, Oct. 28, 2003; 69 FR 69106, Nov. 26, 2004]

§ 1956.144 [Reserved]

**§ 1956.145 Disposition of essential FmHA or its successor agency under Public Law 103-354 records.**

FmHA or its successor agency under Public Law 103-354 Instruction 2033-A (available in any FmHA or its successor agency under Public Law 103-354 office) identifies an "essential FmHA or its successor agency under Public Law 103-354 record" as the original of any document or record which provides evidence of indebtedness or obligation to FmHA or its successor agency under Public Law 103-354 and includes, but is not limited to: promissory notes, assumption agreements and valuable documents, such as bonds fully registered as to principal and interest.

(a) Essential FmHA or its successor agency under Public Law 103-354 records evidencing debts settled by compromise, completed adjustment or cancelled with application will be returned to the debtor or to the debtors'