

§ 608.808

§ 608.808 Right to offer to repay claim.

(a) The debtor may offer to enter into a written agreement with the FCA to repay the amount of the claim. The acceptance of such an offer and the decision to enter into such a written agreement is at the discretion of the FCA.

(b) If the debtor requests a repayment arrangement because payment of the amount due would create a financial hardship, the FCA shall analyze the debtor's financial condition. The FCA may enter into a written agreement with the debtor permitting the debtor to repay the debt in installments if the FCA determines, in its sole discretion, that payment of the amount due would create an undue financial hardship for the debtor. The written agreement shall set forth the amount and frequency of installment payments and shall, in accordance with § 608.812, provide for the imposition of charges for interest, penalties, and administrative costs unless waived by the FCA.

(c) The written agreement may require the debtor to execute a confess-judgment note when the total amount of the deferred installments will exceed \$750. The FCA shall provide the debtor with a written explanation of the consequences of signing a confess-judgment note. The debtor shall sign a statement acknowledging receipt of the written explanation. The statement shall recite that the written explanation was read and understood before execution of the note and that the debtor signed the note knowingly and voluntarily. Documentation of these procedures will be maintained in the FCA's file on the debtor.

§ 608.809 Right to agency review.

(a) If the debtor disputes the claim, the debtor may request a review of the FCA's determination of the existence of the debt or of the amount of the debt. If only part of the claim is disputed, the undisputed portion should be paid by the payment due date.

(b) To obtain a review, the debtor shall submit a written request for review to the FCA official named in the initial demand letter, within 15 calendar days after receipt of the letter. The debtor's request for review shall

state the basis on which the claim is disputed.

(c) The FCA shall promptly notify the debtor, in writing, that the FCA has received the request for review. The FCA shall conduct its review of the claim in accordance with § 608.810.

(d) Upon completion of its review of the claim, the FCA shall notify the debtor whether the FCA's determination of the existence or amount of the debt has been sustained, amended, or canceled. The notification shall include a copy of the written decision issued by the hearing official pursuant to § 608.810(e). If the FCA's determination is sustained, this notification shall contain a provision which states that the FCA intends to collect the debt by all legally available means, which may include initiating legal action against the debtor, referring the debt to a collection agency for collection, collecting the debt by offset, or asking other Federal agencies for assistance in collecting the debt by offset.

§ 608.810 Review procedures.

(a) Unless an oral hearing is required by § 608.823(d), the FCA's review shall be a review of the written record of the claim.

(b) If an oral hearing is required under § 608.823(d), the FCA shall provide the debtor with a reasonable opportunity for such a hearing. The oral hearing, however, shall not be an adversarial adjudication and need not take the form of a formal evidentiary hearing. All significant matters discussed at the hearing, however, will be carefully documented.

(c) Any review required by this part, whether a review of the written record or an oral hearing, shall be conducted by a hearing official. In the case of a salary offset, the hearing official shall not be under the supervision or control of the Chairman of the Farm Credit Administration.

(d) The FCA may be represented by legal counsel. The debtor may represent himself or herself or may be represented by an individual of the debtor's choice and at the debtor's expense.

(e) The hearing official shall issue a final written decision based on documentary evidence and, if applicable, information developed at an oral hearing.