

National Credit Union Administration
SUPPORTING STATEMENT

Federal Credit Union Occupancy, Planning, and Disposal of
Acquired and Abandoned Premises
12 CFR Part 701.36

OMB No. 3133-0040

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary.

Section 107(4) of the FCU Act authorizes an FCU to purchase, hold, and dispose of property necessary or incidental to its operations. NCUA implemented this provision of the FCU Act in its regulation at 12 CFR 701.36. In general, an FCU may invest in property only that it intends to use to transact credit union business or in property that supports its internal operations or serves its members. Among other provisions, § 701.36: (1) limits FCU investments in fixed assets; and (2) establishes occupancy, planning, and disposal requirements for acquired and abandoned premises.

The regulation provides that if an FCU acquires premises, including unimproved land or unimproved real property, it must partially occupy them “no later than six years after the date of acquisition,” subject to the NCUA granting a waiver. Further, an FCU must make diligent efforts to dispose of abandoned premises and any other real property it does not intend to use in transacting business. Additionally, the FCU must advertise for sale premises that have been abandoned for four years.

In response to the COVID-19 crisis, many state and localities have implemented physical distancing measures to arrest the spread of the disease. These health-related restrictions on the mobility of individuals make the changes in occupancy and dispositions required by § 701.36 extremely difficult. Accordingly, NCUA is temporarily tolling the regulatory mandated timeframes. This temporary change appropriately reflects the unique circumstances while maintaining consistency with the statutory provision as interpreted and implemented by the Board. Any days that fall within the period commencing on the date of publication of the temporary rulemaking in the *Federal Register* and concluding at the close of December 31, 2020, shall not be counted for purposes of determining an FCU’s compliance with the regulatory time periods.

This temporary deferral will provide FCUs with additional flexibility to comply with the prescribed time periods, while still complying with the statutory and regulatory goals of ensuring that properties acquired or held by FCUs are used for credit union business.

2. Purpose and use of the information collection.

NCUA reviews the information contained within the waiver to determine if the proposed action would adversely affect the financial soundness of the credit union or pose a risk to the National Credit Union Share Insurance Fund (NCUSIF). The ability to review actions which are not in compliance with Part 701.36 allows NCUA to provide appropriate oversight of the credit union and prevent risk to NCUSIF.

The types of waiver covered under this section are as follows. Temporary deferrals put in place by the temporary rule will impact partial occupancy and disposal of abandoned property waivers.

- *Waiver of requirement for partial occupation.* The occupancy rule requires FCUs that acquire realty for future expansion but fail to at least partially occupy it within three years, or within six years for unimproved real property, to obtain a waiver from NCUA. This rule becomes operative only when FCUs decide to acquire real estate and not partially occupy it within the stated period of time.
- *Waiver of requirement to dispose of abandoned property.* The occupancy rule requires FCUs that abandon property and fail to complete the sale of the property within 5 years of abandonment to seek written approval from NCUA. This rule becomes operative only when FCUs decide to abandon property and not complete the sale of the abandoned property within the stated period. The Federal Credit Union Act does not permit FCUs to own real estate for purposes other than for providing financial services to members.
- *Waiver of prohibited transaction.* The occupancy rule requires FCUs to obtain written approval from NCUA before acquiring or leasing, for one year or longer, realty from prohibited parties. This rule becomes operative only when FCUs decide to acquire real estate from a prohibited party. This part of the information requirement is submitted for approval. The Federal Credit Union Act does not permit FCUs to own real estate for purposes other than for providing financial services to members.

NCUA reviews the information contained within the waiver to determine if the action would adversely affect the financial soundness of the credit union or pose a risk to the National Credit Union Share Insurance Fund (NCUSIF). NCUA responds to waivers by either granting the request to operate outside of Part 701.36, by denying the request or otherwise compromising to meet the needs of the credit union without raising safety and soundness concerns.

3. Use of information technology.

The information collection associated with Part 701.36 of NCUA Rules and Regulations would not employ information technology, beyond permission submission via electronic mail. The waiver requirement is fundamentally manual, since the waiver request must be specific and unique to the requestor.

4. Duplication of information.

There is no duplication of information collection.

5. Effect on Small Entities

The collection of information is less likely to have a significant impact on small businesses or other small entities. These entities would only be required to submit information if they made strategic decisions to operate outside of current occupancy guidelines and would be required to draft a plan or submit a waiver to NCUA. Therefore, if the entity operates within guidelines, there are options to avoid information collection. The majority of credit unions, large and small, would not be expected to submit information each year. NCUA estimates that significantly fewer than 1% of credit unions would request a waiver to any of the three requirements in any particular year.

6. Consequences of not conducting collection

These requirements are necessary to allow the NCUA to supervise federal credit unions for compliance with the Federal Credit Union Act (FCU Act), which authorizes federal credit unions to purchase, hold, and dispose of property necessary or incidental to its operations. If the information is not collected, the consequence would be that NCUA would be unable to assess compliance with the FCU Act.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2).

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency.

A 60-day notice was published in the Federal Register on June 10, 2020 at 85 FR 35444, soliciting comments from the public. No public comments were received on this information collection.

9. Payment or gift to respondents.

There is no payment or gifts provided to respondents.

10. Assurance of confidentiality.

There is no assurance of confidentiality other than that provided by law.

11. Questions of a sensitive nature.

No questions of a sensitive nature are asked. No personally identifiable information (PII) is collected.

12. Burden of Information Collection.

NCUA will be suspending the time limit assigned to partial occupancy, disposal of abandoned property, and advertisement of the sale of abandoned property, that falls on the date of the publication of this rule through December 31, 2020; not to begin until January 1, 2021. The suspension of time requirements will eliminate the need for a waiver during this period for a reduction of 305 burden hours; for a total of 30 burden hours requested.

12 CFR	Information Collection Activity	Type of Burden	Respondents	# Responses per Respondent	Total Annual Responses	Time per Response (Hours)	Total Annual Burden	Currently Approved	Difference
701.36(c)(1)	Waiver of requirements for partial occupations	Reporting	0	1	0	15	0	225	-225
701.36(c)(2)	Waiver of requirement to dispose of abandoned property	Reporting	0	1	0	10	0	100	-100
701.36(d)	Waiver of prohibited transactions	Reporting	3	1	3	10	30	10	20
Totals			3		3		30	335	-305

Based on the labor rate of \$35 per hour, the total cost to respondents is \$1,050.

13. Capital start-up and on-going operation and maintenance costs.

There are no capital start-up or ongoing operation and maintenance costs associated with this information collection.

14. Annualized cost to the Federal government.

The NCUA would likely spend an average of 8 man-hours processing each waiver request and 2 man-hours reviewing that processing. The wage rate is about \$55 an hour. The total NCUA cost for each waiver request is \$1,650.

15. Changes in burden.

This is an extension of a currently approved collection. There are no changes or adjustments to this collection.

16. Information collection planned for statistical purposes.

The information collection is not used for statistical purposes.

17. Request non-display the expiration date of the OMB control number.

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal Government's electronic PRA docket website at www.reginfo.gov.

18. Exceptions to Certification for Paperwork Reduction Act Submissions.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.