

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.

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:

- *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 September 12, 2023 at 88 FR 62604, soliciting comments from the public. No public comments were received in response to that notice. A 30-day notice was published in the *Federal Register* on December 7, 2023 at 88 FR 85327.

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 Regulation § 701.36, “Federal credit union occupancy and disposal of acquired and abandoned premises,” has the following timing requirements and information collections:

Regulation	Timing Requirement for Federal Credit Unions	Information Collection
§ 701.36(c)(1)	Partially occupy acquired premises within six years	Waiver of requirements for partial occupations
§ 701.36(c)(2)	Advertise unused property within four years and complete the sale within five years	Waiver of requirement to dispose of abandoned property
§ 701.36(d)	May not acquire or lease for one year or longer premises in certain prohibited situations	Waiver of prohibited transactions

From April 20, 2020, to December 31, 2022, the NCUA suspended the timing requirements for partial occupancy (§ 701.36(c)(1)) and the disposal of abandoned property (§ 701.36(c)(2)). The suspension of the timing requirement eliminated the need for credit unions to request waivers for both. Starting January 1, 2023, days began to count toward the timing requirement again, and waivers are required if a credit union is going to exceed the timing requirements under §§ 701.36(c)(1), 701.36(c)(2), or 701.36(d). For this reason, the NCUA is projecting the estimated number of annual respondents by annualizing the actual number of waiver requests the NCUA received for each timing requirement from January 1 to September 30, 2023. The credit union hourly rate of \$42.80 was provided by NCUA’s Office of General Counsel.

The burden hours for a waiver of requirements for partial occupancy (§ 701.36(c)(1)) was reduced to be equal to the burden hours for the waiver for the requirement to dispose of abandoned property (§ 701.36(c)(2)) and waiver of prohibited transactions (§ 701.36(d)) because the burden of each waiver request is similar.

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	9	1	9	10	90	30	+60
701.36(c)(2)	Waiver of requirement to dispose of abandoned property	Reporting	9	1	9	10	90	30	+60
701.36(d)	Waiver of prohibited transactions	Reporting	0	1	0	10	0	0	10
Totals			18		18		180	30	+150

Based on the labor rate of \$42.80 per hour, the total cost to respondents is \$7,704.

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 will likely spend an average of 8 man-hours processing each waiver request and 2 man-hours reviewing the processing. The hourly cost for the processing is \$102.90 (CU-13) and the hourly cost of reviewing the processing is \$137.19 (CU-15). The total estimated cost to the government for processing the 18 applications is \$19,918.44. Calculation of hourly cost is shown in the table below.

Table 3 - Hourly Cost by Office Staff Grade Level

	CU-13	CU-15
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National Equivalent Salary		
Minimum	\$84,882	\$113,168
Maximum	\$133,265	\$177,673
Average of Pay Band	\$109,074	\$145,421
Locality Adjustment		
Eastern Region (Alexandria, VA)	50.87%	50.87%
Southern Region (Austin, TX)	30.32%	30.32%
Western Region (Tempe, AZ)	27.87%	27.87%
Average Locality	36.35%	36.35%
Hourly Pay Rate		
Average Annual Salary	\$109,074	\$145,421
Multiplied by: Average market GEO	36.35%	36.35%
Average Salary w/Locality	\$148,725	\$198,286
Divided by: Work hours per year	2,087	2,087
Hourly pay rate	\$71.26	\$95.01
Benefits Factor		
Benefits	\$82,118,000	
	\$184,983,00	
Divided by: Pay	0	
Benefits as % of pay	44.39%	
Hourly Benefits Rate		
Hourly pay rate	\$71.26	\$95.01
Multiplied by benefits factor	44.39%	44.39%
Hourly benefits rate	\$31.64	\$42.18
Total Hourly Rate		
Hourly pay rate	\$71.26	\$95.01
Hourly benefits rate	\$31.64	\$42.18
Total hourly rate	\$102.90	\$137.19

15. Changes in burden.

Burden increased due to the number of respondents increasing.

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.