

## Department of Veterans Affairs

## § 36.4709

of a loan in the case of the sale or transfer of the loan.

(Authority: 42 U.S.C. 4012a(h))

[62 FR 5533, Feb. 6, 1997]

### § 36.4708 Notice of special flood hazards and availability of Federal disaster relief assistance.

(a) *Notice requirement.* When the Secretary makes, increases, extends, or renews a loan secured by a building or a mobile home located or to be located in a special flood hazard area, the Secretary shall mail or deliver a written notice to the borrower and to the servicer in all cases whether or not flood insurance is available under the Act for the collateral securing the loan.

(b) *Contents of notice.* The written notice must include the following information:

(1) A warning, in a form approved by the Director of FEMA, that the building or the mobile home is or will be located in a special flood hazard area;

(2) A description of the flood insurance purchase requirements set forth in section 102(b) of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a(b));

(3) A statement, where applicable, that flood insurance coverage is available under the NFIP and may also be available from private insurers; and

(4) A statement whether Federal disaster relief assistance may be available in the event of damage to the building or mobile home caused by flooding in a Federally declared disaster.

(c) *Timing of notice.* The Secretary shall provide the notice required by paragraph (a) of this section to the borrower within a reasonable time before the completion of the transaction, and to the servicer as promptly as practicable after the Secretary provides notice to the borrower and in any event no later than the time the Secretary provides other similar notices to the servicer concerning hazard insurance and taxes. Notice to the servicer may be made electronically or may take the form of a copy of the notice to the borrower.

(d) *Record of receipt.* The Secretary shall retain a record of the receipt of the notices by the borrower and the

servicer for the period of time the Secretary owns the loan.

(e) *Alternate method of notice.* Instead of providing the notice to the borrower required by paragraph (a) of this section, the Secretary may obtain satisfactory written assurance from a seller or lessor that, within a reasonable time before the completion of the sale or lease transaction, the seller or lessor has provided such notice to the purchaser or lessee. The Secretary shall retain a record of the written assurance from the seller or lessor for the period of time the Secretary owns the loan.

(f) *Use of prescribed form of notice.* The Secretary will be considered to be in compliance with the requirement for notice to the borrower of this section by providing written notice to the borrower containing the language presented in appendix A to this part within a reasonable time before the completion of the transaction. The notice presented in appendix A to this part satisfies the borrower notice requirements of the Act.

(Authority: 42 U.S.C. 4104a)

[62 FR 5533, Feb. 6, 1997]

### § 36.4709 Notice of servicer's identity.

(a) *Notice requirement.* When the Secretary makes, increases, extends, renews, sells, or transfers a loan secured by a building or mobile home located or to be located in a special flood hazard area, the Secretary shall notify the Director of FEMA (or the Director's designee) in writing of the identity of the servicer of the loan. The Director of FEMA has designated the insurance provider to receive the Secretary's notice of the servicer's identity. This notice may be provided electronically if electronic transmission is satisfactory to the Director of FEMA's designee.

(b) *Transfer of servicing rights.* The Secretary shall notify the Director of FEMA (or the Director's designee) of any change in the servicer of a loan described in paragraph (a) of this section within 60 days after the effective date of the change. This notice may be provided electronically if electronic transmission is satisfactory to the Director of FEMA's designee. Upon any change in the servicing of a loan described in

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paragraph (a) of this section, the duty to provide notice under this paragraph (b) shall transfer to the transferee servicer.

(Authority: 42 U.S.C. 4104a)

[62 FR 5534, Feb. 6, 1997]

## Subpart F—Guaranty or Insurance of Loans to Veterans With Electronic Reporting

SOURCE: 73 FR 6310, Feb. 1, 2008, unless otherwise noted.

### § 36.4800 Applicability of this subpart.

(a) This subpart applies to loans serviced by a mortgage servicing industry segment on or after the date that VA issues a FEDERAL REGISTER notice making this subpart applicable to that segment. This includes loans entitled to an automatic guaranty, or otherwise guaranteed or insured, on or after the date assigned in the FEDERAL REGISTER, and loans that were previously guaranteed or insured to the extent that no legal rights vested under the regulations are impaired.

(b) Title 38 U.S.C., chapter 37, is a continuation and restatement of the provisions of Title III of the Servicemen's Readjustment Act of 1944, and may be considered an amendment to such Title III. References to the sections or chapters of title 38 U.S.C., shall, where applicable, be deemed to refer to the prior corresponding provisions of the law.

(Authority: 38 U.S.C. 3703(c)(1))

### § 36.4801 Definitions.

Whenever used in 38 U.S.C. chapter 37 or subpart F of this part, unless the context otherwise requires, the terms defined in this section shall have the following meaning:

*A period of more than 180 days.* For the purposes of sections 3707 and 3702(a)(2)(C) of title 38 U.S.C., the term a period of more than 180 days shall mean 181 or more calendar days of continuous active duty.

*Acquisition and improvement loan.* A loan to purchase an existing property which includes additional funds for the purpose of installing energy conserva-

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tion improvements or making other alterations, improvements, or repairs.

(Authority: 38 U.S.C. 3703(c)(1), 3710(a)(1), (4), and (7))

*Alterations.* Any structural changes or additions to existing improved realty.

*Automatic lender.* A lender that may process a loan or assumption without submitting the credit package to the Department of Veterans Affairs for underwriting review. Pursuant to 38 U.S.C. 3702(d) there are two categories of lenders who may process loans automatically:

(1) Entities such as banks, savings and loan associations, and mortgage and loan companies that are subject to examination by an agency of the United States or any State and

(2) Lenders approved by the Department of Veterans Affairs pursuant to standards established by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 3702(d))

*Compromise sale.* A sale to a third party for an amount less than is sufficient to repay the unpaid balance on the loan where the holder has agreed in advance to release the lien in exchange for the proceeds of such sale.

*Condominium.* Unless otherwise provided by State law, a condominium is a form of ownership where the buyer receives title to a three dimensional air space containing the individual living unit together with an undivided interest or share in the ownership of common elements.

*Cost.* Cost means the entire consideration paid or payable for or on account of the application of materials and labor to tangible property.

*Credit package.* Any information, reports or verifications used by a lender, holder or authorized servicing agent to determine the creditworthiness of an applicant for a Department of Veterans Affairs guaranteed loan or the assumer of such a loan.

(Authority: 38 U.S.C. 3710 and 3714)

*Date of first uncured default.* Date of first uncured default means the due date of the earliest payment not fully