

Department of Veterans Affairs

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month preceding the date the holder approved the loan modification.

(d) The unpaid balance of the modified loan may be re-amortized over the remaining life of the loan. The loan term may extend the maturity date to the shorter of:

(1) 360 months from the due date of the first installment required under the modification, or

(2) 120 months after the original maturity date of the loan.

(e) Only unpaid principal; accrued interest; deficits in the taxes and insurance impound accounts; and advances required to preserve the lien position, such as homeowner association fees, special assessments, water and sewer liens, etc., may be included in the modified indebtedness. Late fees and other charges may not be capitalized.

(f) Holders shall not charge a processing fee under any circumstances to complete a loan modification. However, late fees and any other actual costs incurred and legally chargeable, including but not limited to the cost of a title insurance policy for the modified loan, but which cannot be capitalized in the modified indebtedness, may be collected directly from the borrower as part of the modification process.

(g) Holders will ensure the first lien status of the modified loan.

(h) The dollar amount of the guaranty may not exceed the greater of:

(1) The original guaranty amount of the loan being modified (but if the modified loan amount is less than the original loan amount, then the amount of guaranty will be equal to the original guaranty percentage applied to the modified loan), or

(2) 25 percent of the loan being modified subject to the statutory maximum specified at 38 U.S.C. 3703(a)(1)(B).

(i) The obligor may not receive any cash back from the modification.

(j) This section does not create a right of a borrower to have a loan modified, but simply authorizes the loan holder to modify a loan in certain situations without the prior approval of the Secretary.

(Authority: 38 U.S.C. 3703(c)(1), 3720)

§ 36.4816 Acceptability of partial payments.

A partial payment is a remittance by or on behalf of the borrower on a loan in default (as defined in § 36.4801) of any amount less than the full amount due under the terms of the loan and security instruments at the time the remittance is tendered.

(a) Except as provided in paragraph (b) of this section, or upon the express waiver of the Secretary, the mortgage holder shall accept any partial payment and either apply it to the mortgagor's account or identify it with the mortgagor's account and hold it in a special account pending disposition. When partial payments held for disposition aggregate a full monthly installment, including escrow, they shall be applied to the mortgagor's account.

(b) A partial payment may be returned to the mortgagor, within 10 calendar days from date of receipt of such payment, with a letter of explanation only if one or more of the following conditions exist:

(1) The property is wholly or partially tenant-occupied and rental payments are not being remitted to the holder for application to the loan account;

(2) The payment is less than one full monthly installment, including escrows and late charge, if applicable, unless the lesser payment amount has been agreed to under a documented repayment plan;

(3) The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has been agreed to under a documented repayment plan;

(4) The payment is less than the amount agreed to in a documented repayment plan;

(5) The amount tendered is in the form of a personal check and the holder has previously notified the mortgagor in writing that only cash or certified remittances are acceptable;

(6) A delinquency of any amount has continued for at least 6 months since the account first became delinquent and no written repayment plan has been arranged;

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(7) Foreclosure has been commenced by the taking of the first action required for foreclosure under local law; or

(8) The holder's lien position would be jeopardized by acceptance of the partial payment.

(c) A failure by the holder to comply with the provisions of this paragraph may result in a partial or total loss of guaranty or insurance pursuant to §36.4828(b), but such failure shall not constitute a defense to any legal action to terminate the loan.

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

§ 36.4817 Servicer reporting requirements.

(a) Servicers of loans guaranteed by the Secretary shall report the information required by this section to the Secretary electronically. The Secretary shall accept electronic submission from each entity servicing loans guaranteed under 38 U.S.C. chapter 37 not later than the effective date of this rule.

(b) Not later than the seventh calendar day of each month each servicer shall report to the Secretary basic information (loan identification information, payment due date, and unpaid principal balance) for every loan guaranteed by the Secretary currently being serviced by that entity, unless previously reported under paragraph (c)(7) of this section and has not reinstated, terminated, or paid in full.

(c) Servicers shall report to the Secretary the following specific loan events in accordance with the timeframes described for each event. Unless otherwise specified herein, the servicer shall report these events on a monthly basis (*i.e.*, no later than the 7th calendar day of the month following the month in which the event occurred) only for delinquent loans in its portfolio.

(1) Loan paid in full—when the loan obligation has been fully satisfied by receipt of funds and not a servicing transfer. The servicer shall report this event regardless of delinquency status.

(2) Authorized transfer of ownership—when the servicer learns that an authorized transfer of ownership has been completed. The servicer shall re-

port this event regardless of delinquency status.

(3) Release of liability—when an obligor has been released from liability. The servicer shall report this event regardless of delinquency status.

(4) Partial release of security—when the holder has released the lien on a part of the security for the loan pursuant to §36.4827. The servicer shall report this event regardless of delinquency status.

(5) Servicing transfer (transferring servicer)—when a holder transfers the loan to another servicer.

(6) Servicing transfer (receiving servicer)—when a servicer boards the loan.

(7) Electronic Default Notification (EDN)—when the loan becomes at least 61 days delinquent. The servicer shall report this event no later than the 7th calendar day from when the event occurred. The servicer shall report this event only once per default for delinquent loans in its portfolio.

(8) Delinquency status—when the servicer notifies VA of any updates to the delinquency information on loans for which an EDN has been submitted. The servicer shall report this event monthly (*i.e.*, no later than the 7th calendar day of the month following the month for which the reported information applies) until the default cures or the loan terminates.

(9) Contact information change—when there is a change to the contact information for current owners or a property or mailing address change.

(10) Occupancy status change—when there is a change in property occupancy status.

(11) Bankruptcy filed—when any owner files a petition under the Bankruptcy Code. The servicer shall report this event no later than the 7th calendar day from when the event occurred. The servicer shall report this event only on delinquent loans in its portfolio, if appropriate, or with the EDN when it is reported.

(12) Bankruptcy update—when a significant event related to the bankruptcy has occurred. The servicer shall report this event no later than the 7th calendar day from when the event occurred. The servicer shall report this event only on delinquent loans in its