

Department of Veterans Affairs

§ 36.4822

shall be made no less frequently than monthly. For all other successful loss-mitigation options, incentives shall be paid in the final claim payment.

(e) The Secretary shall reserve the right to stop an incentive payment to a servicer if the servicer fails to perform adequate servicing.

(Authority: 38 U.S.C. 3703(c), 3720, 3722)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0021.)

§ 36.4820 Refunding of loans in default.

(a) Upon receiving a notice of default or a notice under §36.4817, the Secretary may require the holder upon penalty of otherwise losing the guaranty or insurance to transfer and assign the loan and the security therefore to the Secretary or to another designated by the Secretary upon receipt of payment in full of the balance of the indebtedness remaining unpaid to the date of such assignment. Such assignment may be made without recourse but the transferor shall not thereby be relieved from the provisions of §36.4828.

(b) If the obligation is assigned or transferred to a third party pursuant to paragraph (a) of this section the Secretary may continue in effect the guaranty or insurance issued with respect to the previous loan in such manner as to cover the assignee or transferee.

(c) Servicers must deliver to the Secretary all legal documents, including but not limited to proper loan assignments, required as evidence of proper loan transfer within 60 calendar days from the date that VA sends notice to the servicer that VA has decided to refund a loan under this section. Servicers exhibiting a continued failure to provide timely loan transfer documentation may, at the discretion of the Secretary and following advance notice to the servicer, be subject to temporary suspension of all property acquisition and claim payments until all deficiencies identified in the notice

provided to the servicer have been corrected.

(Authority: 38 U.S.C. 3703(c) and 3732(a))

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0362.)

§ 36.4821 Service of process.

(a) In any legal or equitable proceeding to which the Secretary is a party (including probate and bankruptcy proceedings) arising from a loan guaranteed, insured, or made, or a property acquired by the Secretary pursuant to title 38, U.S.C. chapter 37, original process and any other process prior to appearance that may be served on the Secretary must be delivered to the VA Regional Counsel located in the jurisdiction in which the proceeding is docketed. Copies of such process will also be served on the Attorney General of the United States and the United States Attorney having jurisdiction over that area. Within the time required by applicable law, or rule of court, the Secretary will cause appropriate special or general appearance to be entered in the case by an authorized attorney.

(Authority: 38 U.S.C. 3703(c) and 3720(a))

(b) After appearance of the Secretary by attorney all process and notice otherwise proper to serve on the Secretary before or after judgment, if served on the attorney of record, shall have the same effect as if the Secretary were personally served within the jurisdiction of the court.

(Authority: 38 U.S.C. 3720, 3732)

§ 36.4822 Loan termination.

(a) For purposes of this part, a holder, using reasonable diligence must complete a foreclosure within the timeframe and in the manner determined by the Secretary. In determining what constitutes allowable time and method for foreclosure, the Secretary shall review allowances for time and method in connection with the foreclosure of single-family housing loans issued by HUD, Fannie Mae, and Freddie Mac, as well as State statutory requirements. The Secretary will review such timeframes annually and,