

the property or due to personal injury sustained in respect to such property shall be governed by the provisions of this paragraph and paragraph (d)(11) of this section. Ordinary wear and tear excepted, the holder shall bear such risk of loss from the date of acquisition by the holder to the date such risk of loss is assumed by the Secretary. Such risk of loss is assumed by the Secretary from the date of receipt of the holder's election to convey or transfer the property to the Secretary. The amount of any loss chargeable to the holder may be deducted from the amount payable by the Secretary at the time the property is transferred. In any case where pursuant to the VA regulations rejection of the title is legally proper, the Secretary may surrender custody of the property as of the date specified in the Secretary's notice to the holder. The Secretary's assumption of such risk shall terminate upon such surrender.

(8) The conveyance should be made to "Secretary of Veterans Affairs, an Officer of the United States." The name of the incumbent Secretary should not be included unless State law requires naming a real person.

(9) The holder shall not be liable to the Secretary for any portion of the paid or unpaid taxes, special assessments, ground rents, insurance premiums, or other similar items. The holder shall be liable to the Secretary for all penalties and interest associated with taxes not timely paid by the holder prior to conveyance.

(10) The Secretary shall be entitled to all rentals and other income collected from the property and to any insurance proceeds or refunds subsequent to the date of acquisition by the holder.

(11) In respect to a property which was the security for a condominium loan guaranteed or insured under 38 U.S.C. 3710(a)(6) the responsibility for any loss due to damage to or destruction of the property or due to personal injury sustained in respect to such property shall in no event pass to the Secretary until the Secretary expressly assumes such responsibility or until conveyance of the property to the Secretary, whichever first occurs. The holder shall have the right to convey

such property to the Secretary only if the property (including elements of the development or project owned in common with other unit owners) is undamaged by fire, earthquake, wind-storm, flooding or boiler explosion. The absence of a right in the holder to convey such property which is so damaged shall not preclude a conveyance, if the Secretary agrees in a given case to such a conveyance upon completion of repairs within a specified period of time and such repairs are so completed and the conveyance is otherwise in order.

(e) Except as provided in paragraph (d)(6) of this section, the provisions of this section shall not be in derogation of any rights which the Secretary may have under §36.4828. The Under Secretary for Benefits, or the Director, Loan Guaranty Service, may authorize any deviation from the provisions of this section, within the limitations prescribed in 38 U.S.C. chapter 37, which may be necessary or desirable to accomplish the objectives of this section if such deviation is made necessary by reason of any laws or practice in any State or Territory or the District of Columbia, *Provided*, that no such deviation shall impair the rights of any holder not consenting to the deviation with respect to loans made or approved prior to the date the holder is notified of such action.

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

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0381.)

§ 36.4824 Guaranty claims; subsequent accounting.

(a) Subject to the limitation that the total amounts payable shall in no event exceed the amount originally guaranteed, or in the case of a modified loan, such amount as may have been increased under the provisions of §36.4815(h)(2), the amount payable on a claim for the guaranty shall be the percentage of the loan originally guaranteed, or the percentage as adjusted under §36.4815(h)(2), whichever is applicable, applied to the sum of:

(1) The unpaid principal as of the date of the liquidation sale;

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(2) Allowable expenses/advances as described in § 36.4814; and

(3) The lesser of:

(i) The unpaid interest as of the date of the liquidation sale; or

(ii) The unpaid interest for the reasonable period that the Secretary has determined, pursuant to § 36.4822(a), it should have taken to complete the foreclosure, plus 210 days from the due date of the last paid installment. This amount will be increased if the Secretary determines the holder was unable to complete the foreclosure within the time specified in this paragraph due to Bankruptcy proceedings, appeal of the foreclosure by the debtor, the holder granting forbearance in excess of 30 days at the request of the Secretary, or other factors beyond the control of the holder.

(b) Deposits or other credits or setoffs legally applicable to the indebtedness shall be applied in reduction of the indebtedness on which the claim is based. Any escrowed or earmarked funds not subject to superior claims of third persons must likewise be so applied.

(c)(1) Credits accruing from the proceeds of a liquidation sale shall be reported to the Secretary incident to claim submission, and the amount payable on the claim shall in no event exceed the remaining balance of the indebtedness.

(2) The amount payable under the guaranty shall be computed applying the formulae in 38 U.S.C. 3732(c). With respect to a voluntary conveyance to the holder in lieu of foreclosure, the holder shall be deemed to have acquired the property at the liquidation sale for the lesser of the net value of the property or the total indebtedness.

(d)(1)(i) Except as provided in paragraph (d)(1)(ii) of this section, holders shall file a claim for payment under the guaranty electronically no later than 1 year after the completion of the liquidation sale. For purposes of this section, the liquidation sale will be considered completed when:

(A) The last act required under State law is taken to make the liquidation sale final, but excluding any redemption period permitted under State law;

(B) If a holder accepts a voluntary conveyance of the property in lieu of

foreclosure, the date of recordation of the deed to the holder or the holder's designee; or

(C) In the case of a sale of the property 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, the date of settlement of such sale.

(ii) With respect to any liquidation sale completed prior to February 1, 2008, all claims must be submitted no later than February 2, 2009.

(2) If additional information becomes known to a holder after the filing of a guaranty claim, the holder may file a supplemental claim provided that such supplemental claim is filed within the time period specified in paragraph (d)(1) of this section.

(3) No claim under a guaranty shall be payable unless it is submitted within the time period specified in paragraph (d)(1) of this section.

(4) A claim shall be submitted to VA electronically on the VA Loan Electronic Reporting Interface system.

(5) Supporting documents will not be submitted with the claim, but must be retained by the servicer and are subject to inspection as provided in § 36.4833 of this title.

(e) In the event that VA does not approve payment of any item submitted under a guaranty claim, VA shall notify the holder electronically what items are being denied and the reasons for such denial. The holder may, within 30 days after the date of such denial notification, submit an electronic request to VA that one or more items that were denied be reconsidered. The holder must present any additional information justifying payment of items denied.

(Authority: 38 U.S.C. 3703(c), 3720, 3732)

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

§ 36.4825 Computation of indebtedness.

In computing the indebtedness for the purpose of filing a claim for payment of a guaranty or for payment of an insured loss, or in the event of a