

## Department of Veterans Affairs

## § 36.4705

(1) Receiving any scheduled, periodic payments from a borrower under the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan; and

(2) Making payments of principal and interest and any other payments from the amounts received from the borrower as may be required under the terms of the loan.

(k) *Special flood hazard area* means the land in the flood plain within a community having at least a one percent chance of flooding in any given year, as designated by the Director of FEMA.

(Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128)

[62 FR 5532, Feb. 6, 1997]

### § 36.4702 Requirement to purchase flood insurance where available.

*In general.* The Secretary shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan. The amount of insurance must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act. Flood insurance coverage under the Act is limited to the overall value of the property securing the designated loan minus the value of the land on which the property is located.

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

[62 FR 5532, Feb. 6, 1997]

### § 36.4703 Exemptions.

The flood insurance requirement prescribed by 38 CFR 36.4702 does not apply with respect to:

(a) Any State-owned property covered under a policy of self-insurance satisfactory to the Director of FEMA, who publishes and periodically revises the list of States falling within this exemption; or

(b) Property securing any loan with an original principal balance of \$5,000

or less and a repayment term of one year or less.

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

[62 FR 5533, Feb. 6, 1997]

### § 36.4704 Escrow requirement.

If the Secretary requires the escrow of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home that is made, increased, extended, or renewed on or after October 1, 1996, the Secretary shall also require the escrow of all premiums and fees for any flood insurance required under 38 CFR 36.4702. The Secretary, or a servicer acting on behalf of the Secretary, shall deposit the flood insurance premiums on behalf of the borrower in an escrow account. This escrow account will be subject to escrow requirements adopted pursuant to section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) (RESPA), which generally limits the amount that may be maintained in escrow accounts for certain types of loans and requires escrow account statements for those accounts, only if the loan is otherwise subject to RESPA. Following receipt of a notice from the Director of FEMA or other provider of flood insurance that premiums are due, the Secretary, or a servicer acting on behalf of the Secretary, shall pay the amount owed to the insurance provider from the escrow account by the date when such premiums are due.

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

[62 FR 5533, Feb. 6, 1997]

### § 36.4705 Required use of standard flood hazard determination form.

(a) *Use of form.* The Secretary shall use the standard flood hazard determination form developed by the Director of FEMA (as set forth in appendix A of 44 CFR part 65) when determining whether the building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available under the Act. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

## § 36.4706

(b) *Retention of form.* The Secretary shall retain a copy of the completed standard flood hazard determination form, in either hard copy or electronic form, for the period of time the Secretary owns the loan.

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

[62 FR 5533, Feb. 6, 1997]

### § 36.4706 Forced placement of flood insurance.

If the Secretary, or a servicer acting on behalf of the Secretary, determines at any time during the term of a designated loan that the building or mobile home and any personal property securing the designated loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required under 38 CFR 36.4702, then the Secretary or a servicer acting on behalf of the Secretary, shall notify the borrower that the borrower should obtain flood insurance, at the borrower's expense, in an amount at least equal to the amount required under 38 CFR 36.4702, for the remaining term of the loan. If the borrower fails to obtain flood insurance within 45 days after notification, then the Secretary or a servicer acting on behalf of the Secretary, shall purchase insurance on the borrower's behalf. The Secretary or a servicer acting on behalf of the Secretary, may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance.

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

[62 FR 5533, Feb. 6, 1997]

### § 36.4707 Determination fees.

(a) *General.* Notwithstanding any Federal or State law other than the Flood Disaster Protection Act of 1973 as amended (42 U.S.C. 4001-4129), the Secretary, or a servicer acting on behalf of the Secretary, may charge a reasonable fee for determining whether the building or mobile home securing the loan is located or will be located in a special flood hazard area. A determination fee may also include, but is not limited to, a fee for life-of-loan monitoring.

(b) *Borrower fee.* The determination fee authorized by paragraph (a) of this section may be charged to the borrower if the determination:

## 38 CFR Ch. I (7-1-11 Edition)

(1) Is made in connection with a making, increasing, extending, or renewing of the loan that is initiated by the borrower;

(2) Reflects the Director of FEMA's revision or updating of floodplain areas or flood-risk zones;

(3) Reflects the Director of FEMA's publication of a notice or compendium that:

(i) Affects the area in which the building or mobile home securing the loan is located; or

(ii) By determination of the Director of FEMA, may reasonably require a determination whether the building or mobile home securing the loan is located in a special flood hazard area; or

(4) Results in the purchase of flood insurance coverage by the Secretary or a servicer acting on behalf of the Secretary, on behalf of the borrower under 38 CFR 36.4706.

(c) *Purchaser or transferee fee.* The determination fee authorized by paragraph (a) of this section may be charged to the purchaser or transferee 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));