

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

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]

APPENDIX A TO PART 36—SAMPLE FORM OF NOTICE OF SPECIAL FLOOD HAZARDS AND AVAILABILITY OF FEDERAL DISASTER RELIEF ASSISTANCE

We are giving you this notice to inform you that:

The building or mobile home securing the loan for which you have applied is or will be located in an area with special flood hazards. The area has been identified by the Director of the Federal Emergency Management Agency (FEMA) as a special flood hazard area using FEMA's Flood Insurance Rate Map or the Flood Hazard Boundary Map for the following community: _____. This area has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year. During the life of a 30-year mortgage loan, the risk of a 100-year flood in a special flood hazard area is 26 percent (26%).

Federal law allows a lender and borrower jointly to request the Director of FEMA to review the determination of whether the property securing the loan is located in a special flood hazard area. If you would like to make such a request, please contact us for further information.

_____ The community in which the property securing the loan is located participates in the National Flood Insurance Program (NFIP). Federal law will not allow us to make you the loan that you have applied for if you do not purchase flood insurance. The flood insurance must be maintained for the life of the loan. If you fail to purchase or renew flood insurance on the property, Federal law authorizes and requires us to purchase the flood insurance for you at your expense.

- Flood insurance coverage under the NFIP may be purchased through an insurance agent who will obtain the policy either directly through the NFIP or through an insurance company that participates in the NFIP. Flood insurance also may be available from private insurers that do not participate in the NFIP.

- At a minimum, flood insurance purchased must cover the lesser of:

- (1) the outstanding principal balance of the loan; or

- (2) the maximum amount of coverage allowed for the type of property under the NFIP.

Flood insurance coverage under the NFIP is limited to the overall value of the prop-

erty securing the loan minus the value of the land on which the property is located.

- Federal disaster relief assistance (usually in the form of a low-interest loan) may be available for damages incurred in excess of your flood insurance if your community's participation in the NFIP is in accordance with NFIP requirements.

_____ Flood insurance coverage under the NFIP is not available for the property securing the loan because the community in which the property is located does not participate in the NFIP. In addition, if the non-participating community has been identified for at least one year as containing a special flood hazard area, properties located in the community will not be eligible for Federal disaster relief assistance in the event of a Federally-declared flood disaster.

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

[62 FR 5534, Feb. 6, 1997]

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

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AUTHORITY: 38 U.S.C. 107, 501, 512, 2306, 2402, 2403, 2404, 2408, 2411, 7105.

SOURCE: 70 FR 4769, Jan. 31, 2005, unless otherwise noted.

§ 38.600 Definitions.

(a) [Reserved]

(b) *Definitions.* For purposes of §§ 38.617 and 38.618:

Appropriate State official means a State attorney general or other official with statewide responsibility for law enforcement or penal functions.