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CHAPTER 12. QUITCLAIM DEEDS

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# 2.01 QUITCLAIM DEEDS

a. When a servicer elects to convey a property to VA following loan termination, the holder typically records a deed to the property in VA’s name. VA pays an acquisition amount for the property after the Transfer of Custody event is submitted, reviewed, and certified in the VA Loan Electronic Reporting Interface (VALERI). Servicers must provide acceptable evidence of title to VA per the Title Documentation, Insurance, and Timeframe Requirements link at: <http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp>.

b. If the servicer does not provide acceptable title timely, or if the title is deemed unacceptable based on the authority delegated in 38 CFR 36.4345 (f), VA’s property management contractor prepares a Quitclaim Deed (QCD) to transfer the property back to the servicer. If an extension is necessary for a servicer to provide acceptable evidence of title, an extension request must be received by VA’s property management contractor via email prior to the date title documents are due. Contact information is also located on the Title Documentation, Insurance, and Timeframe Requirements link at: <http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp>.

c. The following examples reflect situations when a servicer erroneously records a deed transferring title of the property to VA:

1. A third party was the successful bidder at a foreclosure sale and the servicer deeded

the property to VA instead of the third-party bidder.

2. VA denies conveyance of the property, but the servicer previously executed a deed

into VA’s name.

3. A foreclosure sale was not valid; however a deed to VA was prepared in advance

and recorded.

4. There may also be cases where deeds were recorded to VA on properties securing

Federal Housing Administration (FHA) loans.

12.02 REQUESTING A QUITCLAIM DEED

a. Whenever a servicer or its agent determines that a QCD is needed to transfer any interest previously conveyed to VA, the request will be sent via email to the VA-assigned technician. The email will explain the reason for the request and include an electronic version of the QCD to be executed by VA, along with instructions for transmittal of the executed deed to the party that will handle recordation.

b. Any request for a QCD on a VA-guaranteed loan not assigned to a VA technician will be sent to the Loan Administration Officer (LAO) at the VA Regional Loan Center (RLC) of jurisdiction. If the LAO finds that the need for a QCD is the result of a prior default, the request will be forwarded for handling to the LAO of the previously VA-assigned technician. The LAO will verify VA has no interest in the property and review the deed in accordance with the following paragraph:

1. The VA-assigned technician will review the request for the execution of the QCD, fully document case notes with their review and recommendation, and forward the request to the LAO. If the loan is not assigned to a technician in VALERI, the LAO will document the case notes. In either case, the LAO will review the deed to ensure that it conveys only the interest VA had in the property without any type of warranty. In addition, the effective date of the QCD must be the same date as the initial transfer of the property to VA. By using the same date as the initial transfer to VA, the QCD essentially demonstrates that VA never accepted title to the property, despite the previously recorded deed. In addition, nominal consideration should be shown, along with a statement somewhere in the quitclaim deed that the property was conveyed in error.

12.03 EXECUTING A QUITCLAIM DEED

a. Execution of the QCD ensures the property is transferred from VA’s name to the correct holder of the property. If the deed appears acceptable under the general guideline described above, it will be sent to the Loan Guaranty Officer (LGO) or Assistant LGO for execution and transmittal in accordance with the request. Under 38 CFR 36.4345(b), the LGO or ALGO has the authority to execute deeds in any area of the country on behalf of the Secretary of Veterans Affairs. Execution of the QCD must be completed within 7 days to avoid delays in the servicer’s ability to respond to liens, code violations, taxes, etc. that may have been assessed on the property and remove VA’s name promptly from the title.

b. In some cases, there may be a delay or no request from the servicer for a QCD when conveyances are not accepted or the QCD to VA may have been erroneously recorded without any notice to VA. VA’s first notice may be in the form of a tax bill or a code violation from local authorities. In such cases, after determining that VA should not be the owner of a property, the responsible LAO will ensure that contact is initiated with the servicer to prepare a QCD for VA’s execution. If the servicer delays the preparation of the QCD, the RLC will prepare and execute a QCD back to the servicer.

c. Per 38 CFR 36.4345, “Delegation of Authority,” employees filling certain positions are authorized to sign documents related to real estate transfers on behalf of the Secretary. Designated positions include Loan Guaranty Officers and Assistant Loan Guaranty Officers, who are authorized to sign documents for properties nationwide. Anytime a VA employee signs a document on behalf of the Secretary, the document should include a signature block that cites the delegation of authority. Above the line for the signature should be something similar to the following “(Name of employee, position) on behalf of the Secretary of Veterans Affairs, an Officer of the United States, pursuant to the delegation of authority at 38 CFR 36.4345, but subject to the limitations of 38 CFR 36.4323.” This signature will describe the authority of the individual signing the document, and also serve as notice that whatever the document may state, VA retains its right to determine acceptability of title to the property and to reconvey if title is not acceptable.

d. Any document requiring an address for VA, use “Secretary of Veterans Affairs, an Officer of the United States of America, successors and assigns, at (insert address of VA office of geographic jurisdiction [may be different than the office of the assigned VALERI technician]).” For a listing of VA RLC geographic jurisdictions, and the address for the appropriate RLC to be inserted into the conveyance information in the preceding sentence, please refer to <http://www.benefits.va.gov/homeloans/rlcweb.asp>. If an in-state address is required in a particular state, contact the RLC of geographic jurisdiction for the address of the VA Regional Office in the state. If a personal name is required for the Secretary, use the official name of the current Secretary of VA.