CHAPTER 19. DISASTERS

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19.01 DISASTERS

a. This chapter addresses the Department of Veterans Affairs (VA) guaranteed home loans affected by a Federal Emergency Management Agency (FEMA) declared disaster such as flooding, tornado, storms, etc. This includes ecological, or other human-made disasters, and provides guidance on what actions should be taken to assist affected borrowers. This affects borrowers whose homes were damaged, or destroyed, the families of those killed, those who suffered considerable personal injury, those who provide assistance to impacted family members, and those whose work environments were destroyed, severely damaged, or compromised as a result of the disaster. Servicers must check with FEMA to obtain the specific counties included in the federally declared disaster area and corresponding declaration dates, along with any amendments to the declaration, at www.fema.gov/disasters. Any VA loan which closed prior to the date of the declared disaster is eligible to be considered for VA loss mitigation options. Refer to 38 C.F.R. §36.4329 regarding insurance coverage for properties which may have been damaged or destroyed by the disaster.

19.02 BORROWER ASSISTANCE

a. VA encourages servicers of guaranteed loans to extend all available options to borrowers in distress as a result of a disaster. Responsible counseling with borrowers should help servicers determine whether the delinquency is related to a disaster, or whether it stems from other sources that must be addressed. The proper use of authorities granted in VA regulations may be of assistance to servicers in appropriate cases. For example, 38 C.F.R. §36.4311, allows the reapplication of prepayments to cure or prevent a default. This means that if a borrower has made enough additional pre-payments, the pre-payments may be reversed, the principal balance increased up to the scheduled balance and then pre-payments may be re-applied as regular installments. Also, 38 C.F.R. §36.4315 (Loan modifications), allows the terms of any guaranteed loan to be modified without the prior approval of VA, provided certain conditions in the regulation are satisfied.

b. Members of the National Guard may be called to active duty to assist in recovery efforts. VA encourages servicers to extend special forbearance to National Guard members who experience financial difficulties as a result of their service.

19.03 MORATORIUM ON FORECLOSURE

a. Although the loan servicer is ultimately responsible for determining when to initiate foreclosure and completing a termination action, VA requests that servicers establish a 90-day moratorium from the date of a disaster on initiating new referrals to foreclosure on affected loans. VA regulation 38 C.F.R. 36.4324(a)(3)(ii) allows additional interest on a guaranty claim when termination has been delayed due to circumstances beyond the control of the servicer, such as VA-requested forbearance. If the servicer notifies the VA-assigned technician of forbearance due to a disaster, the VA-assigned technician must identify that loan in the VA Loan Electronic Reporting Interface (VALERI) to ensure case notes are documented properly and interest is adjusted accordingly. Any questions about impact should be discussed with the VA-assigned technician.

b. When a loan becomes 61 days delinquent, and the delinquency is due to the disaster, servicers should use the Reason for Default (RFD) of "Disaster" when reporting the Electronic Default Notification (EDN). Inspections should be completed, per VA requirements, prior to day 60 of delinquency.

1. For additional information on reporting requirements, review Chapter 4 of this handbook.

2. For additional information on reporting an EDN prior to the 61 day of delinquency, review Chapter 5 of this handbook.

19.04 VA CONVEYANCE AFTER DISASTER

a. The Transfer of Custody (TOC) event must be submitted to VA within 15 days of loan termination. If a disaster occurs prior to VA accepting the TOC, the servicer is required to obtain a new appraisal to reflect the current value of the property, so that any damages due to the disaster can be taken into consideration. Servicers are also required to take appropriate action in filing an insurance claim and must advise VA of the amount received in insurance loss proceeds, if any.

19.05 LOAN MODIFICATIONS

a. There are two modification options for borrowers who have been impacted by a federally declared disaster, VA Disaster Modification and the Disaster Extend Modification. The modifications allow servicers to extend permanent payment relief to impacted delinquent borrowers when the borrower has not submitted a complete loss mitigation application. All impacted borrowers should have an opportunity to be considered for a VA Disaster Loan Modification as long as eligibility requirements are met.

b. Refer to Chapter 5 of this handbook for more information on the disaster loan modification programs and eligibility requirements.

19.06 LATE CHARGE WAIVERS

a. VA is aware that many servicers waive late charges on loans in a disaster area, and encourages all servicers to adopt such a policy for any loans that may have been affected due to the ripple effect of the disaster.

19.07 CREDIT AND VA REPORTING

a. VA urges servicers to consider suspension of credit reporting on Veteran borrowers who have been affected by a disaster to avoid damaging credit records.

b. VA will not penalize servicers for any late default reporting as a result of the disaster. This may include direct damage to servicer facilities located in the disaster area, or their operations which have been impacted by business partners within the disaster areas.