



DEPARTMENT OF VETERANS AFFAIRS
Regional Office
1240 East Ninth Street
Cleveland OH 44199

September 22, 2004

In Reply Refer To: 325/261
Information Letter 26-04-16

**TO: All Lenders, Holders, Servicers, SARs, Appraisers and
Compliance Inspectors Doing Business in Ohio**

**SUBJ: Loan Guaranty Requirements Regarding Storm and Flooding
Damage**

1. This is to notify you of VA requirements regarding loans secured by properties in disaster areas designated by Federal authorities in the State of Ohio beginning on September 8, 2004 from severe storms and flooding. This Information Letter applies to properties that are now or that may become subject to disaster declarations as a result of the effects of this disaster. Further, the VA procedures and policies described in this release also apply to future disaster declarations as a result of other events throughout this jurisdiction.

The counties affected by severe storms and flooding beginning September 8, 2004 to date include:

Belmont	Carroll	Columbiana	Guernsey	Harrison	Jefferson
Monroe	Morgan	Muskingum	Noble	Perry	Stark
Trumbull	Tuscarawas	Washington			

2. Loan Origination Issues -

a. Any loan closed prior to September 8, 2004 in the counties listed above is eligible for VA guaranty without regard to the disaster. The "Loan Administration" information in paragraph 3 applies to these cases.

b. For a loan on a property appraised on or before the date of the disaster, and not closed prior to that date, to be eligible for VA guaranty:

1) Both of the following certifications must be submitted with the guaranty request:

a) Lender Certification - This is to affirm that the property which is the security for VA loan number _____ has been inspected to ensure that it was either not damaged in the recent disaster or has been restored to its pre-disaster condition or better.

(lender signature)

(lender title)

(date)

b) Veteran Certification - I have inspected the property located at _____ and find its condition now to be acceptable to me. I understand that I will not be charged for any disaster-related expenses, and now wish to close the loan.

(veteran signature)

(date)

2) The "Remarks" section of VA Form 26-0286, VA Loan Summary Sheet, must be annotated "Lender and Veteran Disaster Certifications Enclosed". Additionally, if local law requires the property to be inspected and approved by the local building inspection authority, a copy of the appropriate local report(s) must be provided. Neither VA nor the veteran purchaser shall bear the expense of any disaster-related inspections or repairs.

3) If there is an indication that the property, despite repairs, will be worth less at the time of loan closing than it was at the time of appraisal, then the lender must have the VA fee appraiser update the original value estimate. The payment of the appraiser's fee for that service will be a contractual matter between the buyer and seller. If the property value has decreased, the loan amount must be reduced accordingly.

4) The lender should ascertain prior to closing that the veteran's employment and income have not changed since the loan application. If at the time of loan closing the veteran is no longer employed or family income has been reduced, that should be reported to VA or the automatic underwriter, as appropriate, for evaluation prior to closing the loan.

3. Loan Administration Issues -

a. VA encourages holders of guaranteed loans in the disaster areas to extend every possible forbearance to borrowers in distress through no fault of their own. VA Regulations regarding "Reapplication of Prepayments" (38 CFR 36.4310), "Advances" (38 CFR 36.4313), "Extensions and Reamortizations" (38 CFR 36.4314), and "Supplemental Loans" (38 CFR 36.4355) may be of assistance in appropriate cases. It is the loan holder's responsibility to inspect damages to properties, counsel borrowers concerning assistance that may be available to them, and provide this office with a report that outlines the findings and actions for each damaged property. Loan holders should contact this office before consenting to an insurance adjustment where the proceeds will not be sufficient to pay the loan balance or restore the security.

b. Please include a copy of the enclosed VA bulletin with any correspondence you send borrowers in the disaster areas. The information it contains should be beneficial to all parties involved.

c. Although the loan holder is ultimately responsible for determining when to initiate foreclosure and for completing termination action, we are requesting that holders establish a 90 day moratorium beginning September 8, 2004 for the counties listed above on initiating new foreclosures in the disaster areas. Since VA is requesting this, the provisions of 38 CFR 36.4319(f) will not be applied by VA during the moratorium to loans secured by properties in the disaster areas. Also, the period of the moratorium will be considered "VA-requested forbearance" for purposes of the no-bid avoidance provisions of 38 CFR 36.4321. There are two exceptions to the 90 day moratorium on new foreclosures:

1) When a default is clearly insoluble and there is no likelihood of reinstatement, and the holder requests and receives VA prior approval to initiate foreclosure during the period of the moratorium, and

2) When a foreclosure sale, the product of an insoluble default that occurred prior to the disaster, was already scheduled. The sale should be delayed only to the extent necessary to determine whether the liquidation appraisal remains accurate, and for such time as it may take the holder to obtain acceptable hazard insurance loss settlement for purposes of 38 CFR 36.4326.

d. VA Regulations (38 CFR 36.4326) require that lenders and holders ensure that homes financed with the assistance of VA-guaranteed loans be sufficiently insured against hazards (including flooding, where appropriate). 38 CFR 36.4325(b) authorizes VA to adjust any claim resulting from a loan foreclosure in which the lender or holder failed to properly procure flood insurance. The burden of proof is upon the lender or holder to establish that no increase in VA's ultimate liability is attributable to the failure of the lender or holder to have the property properly insured.

4. If you have any questions, please contact the VA Cleveland Regional Loan Center at 1-800-729-5772. We appreciate your cooperation and participation in the VA Home Loan Guaranty Program.

/s/

JAMES L. BRUBAKER, JR.
Loan Guaranty Officer

Enclosure