



DEPARTMENT OF VETERANS AFFAIRS
Regional Office
210 Franklin Road S.W.
Roanoke, VA 24011

September 14, 2004

LOAN GUARANTY INFORMATION LETTER #26-04-15

TO: ALL LENDERS, HOLDERS, AND SERVICERS

SUBJ: LOAN GUARANTY REQUIREMENTS REGARDING FLOOD DAMAGE IN KENTUCKY

1. **PURPOSE** The purpose of this release is to notify you of VA requirements regarding loans secured by properties in the disaster areas designated by Federal authorities as a result of flood damage throughout the state of Kentucky. Under the declaration, the counties of Adair, Allen, Barren, Breckinridge, Butler, Clinton, Cumberland, Daviess, Edmondson, Grayson, Green, Hancock, Hardin, Hart, Larue, Meade, Metcalfe, Monroe, Nelson, Ohio, Russell, Shelby, Spencer, Taylor, Warren, Washington and Wayne are affected by this declaration. These requirements will remain in force for the duration of the disaster and until the risk to the veteran, lender, holder, and VA has been mitigated.

2. **LOAN ORIGATION ISSUES**

a. Any loan closed prior to August 6, 2004, is eligible for VA guaranty without regard to the disaster. The "Loan Servicing and Claims" information in paragraph 3 applies to these cases.

b. For a loan on a property appraised on or before August 6, 2004, 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) (date) (lender title)

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 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 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.

c. For loans not falling into one of the above categories, please contact us with loan specifics and we will provide direction.

3. LOAN SERVICING AND CLAIMS 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 which may be available to them, and provide this office with a report which 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 attached VA bulletin with any correspondence you send borrowers in the disaster areas. The information will 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 from August 6, 2004 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 provision 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 which 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 there are any loan origination-related questions, please contact Sara Hayden at (800) 933-5499, Extension 3171. For Loan Service and Claims-related questions, please contact Dave Cooley at (800) 933-5499, Extension 3129. We appreciate your cooperation in this matter.

/s/

DAVID J. DAVIS
Acting Loan Guaranty Officer

Enclosure

Information Sheet Regarding Kentucky Flood Damage

President Bush has declared the counties of Adair, Allen, Barren, Breckinridge, Butler, Clinton, Cumberland, Daviess, Edmondson, Grayson, Green, Hancock, Hardin, Hart, Larue, Meade, Metcalfe, Monroe, Nelson, Ohio, Russell, Shelby, Spencer, Taylor, Warren, Washington and Wayne, disaster areas as a result of flooding. The Department of Veterans Affairs provides the following information for homeowners with a VA Guaranteed Loan who may be affected by the disaster.

It is very important that you **contact your lender** as soon as possible regarding your loss. **You are not excused from making your regular monthly loan payments even if the home is not habitable.**

You should discuss possible extension or reamortization of your loan if you are unable to make your payments on time. You should also have your lender explain procedures regarding repairs to your property, payment to contractors, etc.

Do not make a hasty settlement on insurance. If possible, get at least two estimates from licensed contractors for cost of repairs or rebuilding. Insurance checks for personal property and living expenses should be made payable only to the homeowner. Checks for real property should be made payable to the homeowner and the mortgagee.

When the property is damaged but repairable, if possible, get the city engineer's office to make an inspection for **structural damage**. If a city engineer's inspection is not obtainable, an inspection by a licensed engineer should be obtained. **Do not pay your loan in full** before checking with the Small Business Administration on a loan for the uninsured portion of your loss.

Contact your VA regional office regarding your loss. **If you are receiving VA checks, notify your local post office and VA regional office of your change of address if you will not be receiving mail at your regular address.**

If you are a veteran who has a **Specially Adapted Housing Grant**, you should contact your VA regional office.

Assistance is available for homeowners through the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA) and many other agencies associated with the disaster recovery effort. In order to receive the maximum assistance, you must register with FEMA before the deadline expires. You cannot obtain assistance for uninsured losses or damages to your home from the SBA or any other disaster recovery agency if you have not registered with FEMA. You may find information regarding disaster relief at the website for the Federal Emergency Management Agency (<http://www.fema.gov>) or you can apply for assistance by calling 1-800-621-FEMA(3362).

For information on benefits other than home loans, call (800) 827-1000.

DAVID J. DAVIS
Acting Loan Guaranty Officer
(800) 933-5499