

§ 36.4370

necessary the Secretary may take any of the following actions:

(1) Pay such amount as is reasonably necessary to correct the defect, or

(2) Pay the claim of the borrower for reimbursement of the borrower's expenses for correcting or obtaining correction of the defect, or

(3) Acquire title to the property upon terms acceptable to the borrower and the holder of the guaranteed or insured loan.

(e) To the extent of any expenditure made by the Secretary pursuant to paragraph (d) of this section the Secretary shall be subrogated to any legal rights the borrower or applicant described in paragraph (c)(2) of this section may have against the builder, seller, or other persons arising out of the structural defect or defects.

(f) The borrower shall not be entitled, as a matter of right, to receive the assistance in the correction of structural defects provided in this section. Any determination made by the Secretary in connection with a borrower's application for assistance shall be final and conclusive and shall not be subject to judicial or other review. Authority to act for the Secretary under this section is delegated to the Under Secretary for Benefits.

(g) For the purpose of this section, the term "structural defects seriously affecting livability" shall in no event be deemed to include—

(1) Defects of any nature in a dwelling in respect to which the applicant for assistance under this section was the builder or general contractor, or

(2) Structural features, improvements, amenities, or equipment which were not taken into account in the Secretary's determination of reasonable value.

(Authority: 38 U.S.C. 3703(c)(1), 3727)

§ 36.4370 Advertising and solicitation requirements.

Any advertisement or solicitation in any form (e.g., written, electronic, oral) from a private lender concerning housing loans to be guaranteed or insured by the Secretary:

(a) Must not include information falsely stating or implying that it was issued by or at the direction of VA or

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any other department or agency of the United States, and

(b) Must not include information falsely stating or implying that the lender has an exclusive right to make loans guaranteed or insured by VA.

(Authority: 38 U.S.C. 3703(c)(1))

§ 36.4375 Insured loan and insurance account.

(a) Loans otherwise eligible may be insured when purchased by a lender eligible under 38 U.S.C. 3703(a) if the purchaser (lender) submits with the loan report evidence of an agreement, general or special, made prior to the closing of the loan, to purchase such loan subject to its being insured.

(b) A current account shall be maintained in the name of each insured lender or purchaser. The account shall be credited with the appropriate amounts available for the payment of losses on insured loans made or purchased. The account shall be debited with appropriate amounts on account of transfers, purchases under § 36.4820, or payment of losses. The Secretary may on 6 months' notice close any lender's insurance account. Such account after expiration of the 6-month period shall be available only as to loans embraced therein.

(c) Amounts received or recovered by the Secretary or the holder with respect to a loan after payment of an insured claim thereon will not restore any amount to the holder's insurance account.

(Authority: 38 U.S.C. 3703(a)(2))

§ 36.4377 Transfer of insured loans.

(a) In cases involving the transfer from one insured financial institution to another insured institution of loans which are transferred without recourse, guaranty, or repurchase agreement, if no payment on any loan included in the transfer is past due more than one calendar month at the time of transfer there shall be transferred from the insurance account of the transferor to the insurance account of the transferee an amount equal to the original percentage credited to the insurance account in respect to each loan being