

### **Special Relief Following State of Michigan Contaminated Water**

1. Purpose. This Circular expresses concern about the Department of Veterans Affairs (VA) home loan borrowers affected by contaminated water in the State of Michigan, and describes measures mortgagees may employ to provide relief.

2. Direct and Indirect Impact on Borrowers. Directly affected are those homes where the water is contaminated and the families of those affected. Also directly affected are those whose work environments have water contamination as a result. Many others have been indirectly affected, including business partners of those in the federally declared emergency areas announced by the Federal Emergency Management Agency (FEMA), and family members or friends living outside the emergency area who shelter displaced evacuees.

3. Forbearance Request. VA encourages holders of guaranteed loans to extend every possible forbearance to borrowers in distress as a result of this water contamination. Careful counseling with borrowers should help determine whether their difficulties are directly or indirectly related, or whether they stem from other sources that must be addressed outside the guidance of this circular. The proper use of authorities granted in VA regulations may be of assistance in appropriate cases. For example, Title 38, Code of Federal Regulations (CFR), section 36.4311 (Prepayments) allows the reapplication of prepayments to cure or prevent a default. This means that if a borrower has been making additional principal payments over a period of years, the principal balance may be increased up to the scheduled balance and the increase applied toward regular installments. Also, 38 CFR 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.

4. Moratorium on Foreclosure. Although the loan holder is ultimately responsible for determining when to initiate foreclosure and for completing termination action, VA has requested on its website (<http://www.benefits.va.gov/homeloans>) that holders establish a 90-day moratorium, from the date of the emergency declaration, on initiating new foreclosures in the affected area. VA regulation 38 CFR 36.4324(a)(3)(ii) allows additional interest on a guaranty claim when eventual termination has been delayed due to circumstances beyond the control of the holder, such as VA-requested forbearance. The initial request applies to loans in the federally declared emergency area, which VA believes should include areas declared by FEMA as eligible for public assistance as well as those areas eligible for individual assistance. Because of the impact of the water contamination, holders should ensure that all foreclosure referrals nationwide during the moratorium are reviewed prior to initiation to ensure that borrowers have not been affected significantly enough to justify delay in referral. Any questions about impact should be discussed with the VA Regional Loan Center (RLC) of jurisdiction.

5. Late Charge Waivers. VA believes that many servicers plan to waive late charges on loans in the declared emergency area, and VA encourages all servicers to adopt such a policy for any loans that may have been affected due to the ripple effect as mentioned in Paragraph 2.

6. Credit and VA Reporting. In order to avoid damaging credit records of Veteran borrowers in the affected areas, VA encourages servicers to consider suspension of credit reporting on any Veteran borrowers who have been affected by the water contamination. Please contact the appropriate RLC with any questions.

7. Rescission: This Circular is rescinded April 1, 2018.

By Direction of the Under Secretary for Benefits

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