

VA Lenders Handbook (VA Pamphlet 26-7), Chapter 5, Topic 6 — Processing Loan Assumptions by the Current Servicer or

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VA Lenders Handbook (VA Pamphlet 26-7), Chapter 5, Topic 6 — Processing Loan Assumptions by the Current Servicer or

6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan Change Date April 1, 2019

• This chapter has been revised in its entirety. a. General Information If you are not the loan servicer or holder of the current VA loan, please refer the borrower or purchaser to the servicer or holder of the current VA loan for processing. Assumptions can only be processed and closed by loan holders and services with VA automatic authority that are holding or servicing the current VA loan. Loan holders or servicers holding the loan without VA automatic authority that are holding or servicing the current VA loan, may submit a prior approval package to the VA RLC of jurisdiction of where the property is located. See Topic 1 of this chapter. A VA assumption is also considered a Release of Liability (ROL). Properties that are security for VA-guaranteed loans may be disposed or transferred even though the loans are not paid in full. Veterans who dispose or transfer their properties under these conditions remain liable to VA for any loss that may occur as a result of a future default and subsequent claim payment, unless the property is transferred to a creditworthy purchaser who agrees to assume the payment obligation. The servicer initially determines the purchaser's creditworthiness. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-23 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued a. General Information, continued Any purchaser may qualify to assume a VA loan; however, for a Veteran's entitlement to be restored, a Veteran purchaser with sufficient entitlement must complete a Substitution of Entitlement (SOE) when the ROL is closed. The Veteran's entitlement is not restored unless the Veteran purchaser, in addition to assuming the payment obligation, also agrees and is eligible to substitute their entitlement for the Veteran seller's entitlement. It is important for the servicer as soon as possible in the assumption process to obtain COEs for both the Veteran assumer and Veteran seller to determine if there is sufficient entitlement in which to substitute. See chapter 3 of this handbook. Unless the ROL is an unrestricted transfer, a closing disclosure is required. An ROL or SOE does not affect the original issuance of the LGC. b. Who Can Process Loan Assumptions? While procedures for processing requests for assumption approvals previously depended on the date of loan (commitment made on or after March 1, 1988), the VA Loan Electronic Reporting Interface (VALERI) regulations authorize loan holders or servicers with automatic authority that are holding or servicing the current VA loan to be transferred to determine creditworthiness on all assumption approval requests processed by their servicers. c. Servicers with Automatic Authority Servicers with automatic authority are authorized to process and determine creditworthiness on assumption approval requests on behalf of VA. Servicers must follow VA underwriting guidelines (see chapter 4 of this handbook) when processing and determining creditworthiness on these cases. Servicers must notify VA electronically of authorized ownership transfers and approved ROLs in VALERI. Additional information on the reporting process is available online at

<http://www.benefits.va.gov/homeloans/valeri.asp>. An underwriting and closing package must be uploaded into WebLGY, for the existing VA loan number. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-24 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued e. Transfers of Ownership on Properties with Loan Commitments after March 1, 1988 Transfers of ownership on properties securing loans for which commitments were made on or after March 1, 1988, must have the prior approval of the loan holder or its authorized servicing agent if either of them have automatic authority. If neither the holder nor the servicer has automatic authority, the servicer must submit a credit package to VA for underwriting. A seller must apply for approval of the transfer prior to completing the sale. Servicers and holders with automatic authority must examine the application to assess compliance with the provisions of 38 U.S.C. 3714. VA will make the determination in a case where neither the servicer nor the holder has automatic authority, following receipt of a complete application package from the servicer or holder. Continued on next page d. Servicers without Automatic Authority Servicers without automatic authority that are servicing loans for holders with automatic authority must advise the holders of any assumption approval requests, and the holders will be responsible for determining creditworthiness. When neither the servicer nor the holder has automatic authority, the servicer must develop a complete credit package and submit it, along with a copy of the purchase contract and the status of the loan to the Loan Production section at the VA RLC where the property is located. The package should contain a cover letter indicating prior approval underwriting is required as both the servicer and the holder do not have VA automatic authority. See Topic 4, subsection c, of this chapter for the stacking order. VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-25 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued f. Approval Requirements To approve the transfer of ownership: • the loan must be current or will be brought current at the closing of the sales transaction, • the prospective purchaser of the property is creditworthy, as determined in accordance with 38 C.F.R. 36.4340 and Chapter 4 of the Lender's Handbook, and • the prospective purchaser has agreed to assume all of the loan obligations, including the obligation to indemnify VA if a claim is paid. A processing fee may be collected in advance, including a reasonable estimate for the cost of the credit report. The maximum fee for processing a request for assumption approval and changing the loan records is the lesser of: • automatic authority – \$300 plus the actual cost of a credit report; or • no automatic authority – \$250 plus the actual cost of a credit report; or • any maximum prescribed by applicable state law. VA does not specifically regulate when the processing fee may be assessed. However, when the processing fee is collected prior to signing the sales contract, the portion of the fee attributable to changing the servicer's records (usually \$50) must be returned to the seller if the application is denied or the process is not completed. Therefore, VA recommends that the processing charge accompany the complete package. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-26 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued g. Processing Time Guidelines Automatic Authority: Servicers or holders with automatic authority must complete the underwriting and notify the seller of the decision within 30 calendar days after receiving a complete ownership transfer approval application package. Without Automatic Authority: Servicers without automatic authority (where the holder also does not have automatic authority) must submit documents to VA within 21 days after receiving a complete application package. VA Review: VA has 10 business days to complete its underwriting review and notify the servicer of its decision. Servicers have 7-calendar days to notify all parties of VA's decision. h.

Decision Notices Approvals: If the application for ownership transfer is approved, the servicer must notify the seller and include instructions for the assumption of liability by the purchaser, the amount of funding fee that must be paid, and documentation needed to complete the process. **Disapprovals:** If the application is disapproved, the seller and purchaser must be notified. The disapproval notice must include: • the reason(s) for the decision and a notice that the decision may be appealed to VA within 30 calendar days, • contact information of the servicer including address, phone number, and e-mail of the servicer for VA to request the underwriting package if appealed, • if the application was disapproved for credit reasons, the purchaser must be informed of the basis on which the adverse decision was made in accordance with the Fair Credit Reporting Act. If the application remains disapproved after 45 calendar days (to allow time for an appeal and review by VA), the \$50 fee for changing the account records, if previously collected, must be refunded. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-27 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued i. VA Appeals The seller or the purchaser may appeal a disapproval decision to the VA RLC with jurisdiction over where the property is located within 30 calendar days from the notification of disapproval. When the VA RLC receives an appeal of a denied request, VA will request that the servicer send a copy of the application package used in making the decision. The loan package must be provided to the VA office of jurisdiction of where the property is located within 7 calendar days. The VA RLC of jurisdiction of where the property is located will review and either approve the assumption on appeal or uphold the decision to deny the application. If approved, the servicer should close the assumption within 30 calendar days of VA's approval and submit a closing package to the VA RLC of jurisdiction of where the property is located. If the appeal is not approved, VA's notice will advise the seller of the right to request a special approval within 15 calendar days of receipt of the disapproval notice. **Special Approval:** Following an appeal to VA, the seller may request special approval within 15 calendar days of receipt of the disapproval notice. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-28 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued i. VA Appeals, continued VA's special approval does not release any obligor from liability. VA may determine that special approval of the assumption is in the best interest of the government if: • the seller agrees to remain secondarily liable on the loan following assumption, • the seller is unable to otherwise continue payments on the loan, and reasonable efforts have been made to find a creditworthy borrower for the property, or • if an obligor is released without proper approval, VA may be released from further liability on the guaranty. VA has 7 calendar days from receipt of the seller's request to make this determination. If approved, the VA RLC will notify the servicer and seller that the assumption has been approved and that the seller will not be released from liability to VA; however, the property can be transferred to the purchaser(s). The servicer should close the assumption with 30 days of VA's special approval. If disapproved, the VA RLC will notify the seller and lender that the assumption has not been approved, that the seller will not be released from liability, and the property cannot be transferred. j. Steps After Approval Once approved, the servicer will complete the transfer with a loan closing that meets all federal and any state and local regulations and requirements. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-29 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued k. Assumption Clause The VA-approved assumption clause must be included in the deed conveying the property to the purchaser. The VA RLC of jurisdiction of where the property is located has an example(s) of assumption clauses that are both

acceptable to VA and compliant with state and local requirements. Servicers should contact the RLC of jurisdiction of where the property is located to obtain sample language and/or documents. The servicer is responsible for reviewing the document to establish that it contains the approved assumption clause and recording data and that it has the legal effect intended. l. Agreement Creating Liability If the seller and purchaser have satisfied all the requirements of 38 U.S.C. 3714(a)(1), but the transfer deed containing an acceptable assumption clause was not included, the servicer must prepare an "Agreement Creating Liability to Holder and to United States" to execute the release. The servicer must prepare an Agreement Creating Liability to Holder and to "United States" to execute the release. Three copies are needed for execution and must be signed by the: • seller, • purchaser, and • servicer as agent for the Department of Veteran Affairs. The VA RLC of jurisdiction of where the property is located has examples of agreements that are both acceptable to VA and compliant with state and local requirements. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-30 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued l. Agreement Creating Liability, continued Servicers should contact the VA RLC of jurisdiction of where the property is located to obtain sample language and/or documents. Once received, the servicer is responsible for reviewing the document to establish that it was properly completed and that it has the legal effect intended. The holder or its authorized servicing agent will then execute the release portion of the form. In those states where recording the assumption and/or the release instrument is necessary, the Veteran may be asked to pay the recording fees. m. Funding Fee At loan transfer, the purchaser is required to pay a funding fee to the servicer equal to one-half of one percent of the loan balance as of the date of transfer. See Chapter 8 of this handbook for information on other exemptions from the funding fee and how to verify exemption status. When the transfer is a result of an unrestricted transfer, a funding fee is not required. The fee must be paid to VA within 15 calendar days of the date of assumption using the VA Funding Fee Payment System – VA FFPS . The VA funding fee cannot be financed into the loan being assumed. It must be paid in cash at the time of transfer. n. Notification to VA Servicers must notify VA after ownership has been transferred and release of liability has been granted. Additional information can be found at: <http://www.benefits.va.gov/homeloans/valeri.asp>. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-31 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued n. Notification to VA, continued Servicers must also submit a completed closing package to the VA RLC of jurisdiction of the property after ownership has been transferred and an ROL has been granted. The package should contain documentation in the following stacking order: Order Documents 1 Lender's Cover Letter 2 If Substitution of Entitlement, then Certificate of Eligibility for both Veteran seller and assumer and signed VA Form 26- 8106, Statement of Veteran Assuming GI Loan 3 Copy of quit claim deed or other recorded document with transfer of ownership with VA clause or if not included, signed assumption agreement by all parties (seller, assumer, and servicer/holder) 4 Evidence loan current at the time of the transfer 5 VA Form 26-8937, Verification of VA Benefits, if required 6 URLA with revised VA Form 26-1802a, HUD/VA Addendum to URLA. These final forms must be properly completed and legible. Forms may be signed and dated anytime from the date of initial application to the date of loan closing. 7 Closing Disclosure Statement 8 VA Form 26-8497, Request for Verification of Employment, and other verifications of income such as pay stubs and tax returns 9 CAIVRS: borrower/co-borrower 10 All credit reports obtained in connection with the loan and any related documentation such as explanations for adverse credit, if required. 11 VA Form 26-8497a, Request for Verification of

Deposit, or alternative VOD, and other related documents 12 For Automated Underwriting cases: Feedback certificate and underwriter's certification. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-32 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued n. Notification to VA, continued 13 VA Form 26-6393, Loan Analysis 14 If a loan is submitted more than 60-calendar days after loan closing, a statement signed by a corporate officer of the lender which identifies the loan, provides the specific reasons for late reporting and certifies that the loan is current. 15 VA Form 26-0592, Counseling Checklist for Military Homebuyers, if the applicant is on active duty 16 Purchase/Assumption/earnest money contract 17 Other necessary documents (for example – but not limited to, a POA if used, lenders loan quality certification). 18 Copy of the original note and all riders

Servicers are required to retain the supporting documentation for all transfers, assumptions, and an ROL for at least 3 years from approval or denial. o. Assumptions without Prior Approval Servicers must notify VA's Loan Production Department at the RLC of jurisdiction of where the property is located (in addition to the VALERI system) within 60 days after learning of a transfer that did not receive prior approval by the servicer or VA. The notice must advise VA whether the servicer intends to exercise the option to immediately refer the case to foreclosure or to give the transferor and transferee the opportunity to apply for "retroactive approval" of the assumption. Upon learning of an unapproved transfer, the servicer may decide to demand immediate payment of the one-half of one percent VA funding fee and request a copy of the instrument of transfer to determine the liability of the purchaser. Loans for which a commitment was made prior to March 1, 1988, are commonly known as freely assumable loans. Owners have the right to sell the property securing these loans under any terms; servicers may not impose a restriction, charge, or fee that would limit or nullify this right. A funding fee is not assessed on assumptions of loans where the commitment was made prior to March 1, 1988. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-33 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued o. Assumptions without Prior Approval, continued Liability assumed. The purchaser should be afforded an opportunity for retroactive approval of the transfer if: • the purchaser pays the funding fee, • the purchaser has assumed all of the seller's obligations in the transfer deed, • the assumption language is legally binding, and • it appears that the purchaser intends to satisfy those obligations. When these conditions have been met, then the Veteran and transferee must specifically apply for an ROL under 38 U.S.C. 3713. See subsection a of this topic. An ROL does not restore the original Veteran's VA home loan entitlement and does not affect the guaranty on the loan. After the completion of an ROL, a Veteran purchaser can apply for a Substitution of Entitlement to restore the Veteran seller's entitlement (see subsection r of this topic). Liability not assumed. If prior approval of a transfer was not obtained and the title was transferred "subject to" the mortgage or deed of trust, then the purchaser usually has no liability on the loan and no liability for the funding fee. In this instance, the purchaser may have no incentive to maintain the payments. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-34 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued o. Assumptions without Prior Approval, continued The original Veteran seller is still liable if the home subsequently defaults and VA pays a claim based on the Veteran's entitlement used to guaranty the loan. It may still be advisable to extend the opportunity to apply for retroactive approval of the transfer, with the expectation that the purchaser will assume liability for repayment of the loan. The original mortgagor remains liable on the loan unless he or she is released from personal liability with a qualifying assumption. The Veteran and transferee must specifically

apply for an ROL under 38 U.S.C. 3713. See subsection a of this topic. An ROL does not restore the original Veteran's VA home loan entitlement and does not affect the guaranty on the loan. The LGC remains in the original Veteran's name. After the completion of an ROL, a Veteran purchaser can apply for an SOE to restore the Veteran seller's entitlement. See subsection r of this topic. An exception applies when the loan was made by a state, territorial, or local governmental agency and the law requires acceleration of the maturity of the loan upon sale or transfer of the property to a person not eligible for assistance under the special program. VA has approved due-on-sale clauses to allow Veterans to participate in these programs and take advantage of below-market interest rates and benefits. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-35 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued o. Assumptions without Prior Approval, continued Process for Retroactive Approval. If the Veteran and current owner will be permitted to apply for retroactive approval, the assumption process should be completed in the same manner as if the application had been received prior to the transfer. This includes the right of appeal to VA, if the request is denied. Should a purchaser fail to cooperate in the retroactive approval process, a servicer has the option of accelerating the loan. When making this decision, the servicer should consider the implications of state law when delaying acceleration as compared to the prospect of accelerating a current loan that has the potential for future timely payments. Any decision must be reported to the VA RLC of jurisdiction of the property and in VALERI. p. General Release of Liability Procedures VA-guaranteed loans dated prior to March 1, 1988, can be transferred without VA's prior approval, borrowers and transferees may apply for an ROL before or after the closing of the transaction. Servicers with automatic authority must process an ROL when the borrower and transferee specifically apply for a release. Servicers without automatic authority that are servicing loans for holders with automatic authority must advise the holders of any assumption approval requests, and the holders will be responsible for determining creditworthiness. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-36 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued p. General Release of Liability Procedures, continued A processing charge may be assessed for reviewing a request for an ROL just as on a request for approval of ownership change on a later loan. When a borrower sells his or her home to transfer ownership without requesting an ROL, the servicer may charge up to \$50 for amending its records to reflect a change in ownership, if the parties involved agree and it is permissible under the loan agreement. No funding fee may be assessed on assumptions of loans where the commitment was made prior to March 1, 1988. q. Release of Liability Procedures for Divorce A Veteran may seek release from personal liability when his or her former spouse acquires the property as the outcome of a legally binding separation agreement or divorce proceedings and the ex-spouse was jointly liable on the loan with the Veteran prior to the divorce. Servicers may process requests for an ROL from divorced Veterans using the same general procedures outlined in subsection a of this topic. When processing an ROL in divorce cases in which the Veteran's former spouse receives the property, the servicer is authorized to charge the normal processing fee to complete the credit underwriting. A funding fee may not be assessed. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-37 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued q. Release of Liability Procedures for Divorce, continued The following requirements must be met: • the divorce is final and absolute and it is determined no appeal will be taken, or • a signed separation agreement by all parties based on local laws and available documents with reasons why a separation

agreement is used in lieu of a final decree of divorce, and • the entire estate encumbered for the VA-guaranteed loan has become vested in the name of the Veteran's former spouse, and • there is not any knowledge of any property settlement that would make the Veteran liable between the parties to pay the guaranteed loan. Some states require a specific amount of time between a legal separation and a divorce (up to one year). With proper documentation, do not delay the request for an ROL, if the divorce is not final, but a legal separation agreement is in effect. In some instances, the ex-spouse may also be a Veteran; however, for VA purposes, only the applicant who used their entitlement to guaranty the loan is considered a Veteran. For example, John and Mary Doe are divorcing and both have obtained a COE; however, only John's COE was used to guarantee the loan. Since Mary's COE was not used to guarantee the home, only John is considered the Veteran. If Mary wishes to assume the loan, a credit qualifying package is required for an ROL and Mary can substitute her entitlement with the assumption. When the Veteran is awarded the property, the ex-spouse may seek an ROL. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-38 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued q. Release of Liability Procedures for Divorce, continued Requests for an ROL from an ex-spouse in cases where the Veteran retains the property should be referred to the VA RLC of jurisdiction over the state where the property is located, to process a Non-Veteran Spouse (NVS) ROL. The servicer will be provided a with an NVS letter indicating VA has released the non-Veteran spouse of liability. The servicer may only charge a fee of \$50 for amending its records to reflect the change. It is not necessary for the servicer to complete an ROL. For example, Mary and Jon Smith divorced after they purchased a home using Mary's COE. She obtains the home per the divorce decree. Since she is the Veteran and will be retaining the property, she will contact the VA RLC of jurisdiction of where the property is located to process the NVS. r. Substitution of Entitlement A Veteran may allow an assumption/ROL of his or her VA- guaranteed loan with the expectation of being able to have his or her entitlement restored. A restoration may be needed to obtain another VA-guaranteed loan in the future by restoring the previously used entitlement for full entitlement benefits. Entitlement cannot be restored until VA makes a determination of eligibility for the Veteran assumer and Veteran seller and processes the SOE. VA completes the SOE process after a servicer closes the assumption and issues an ROL. Questions about an SOE should be directed to the VA RLC with jurisdiction where the property is located. It is important for the servicer to obtain a COE as soon as possible in the assumption process to determine if there is sufficient entitlement for the Veteran assumer to complete the SOE for the Veteran seller. Entitlement must be of equal amounts to substitute. See Chapter 3 of this handbook for determination of home loan eligibility. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-39 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued r. Substitution of Entitlement, continued When a Veteran requests approval for a transfer of ownership, he or she may request to have entitlement restored for use on another VA loan. For VA to approve such a request: • the assumption (ROL) must be completed and closed by the lender; • the purchaser must be an eligible Veteran who has sufficient entitlement to substitute for that of the original Veteran; • the purchaser must certify that the property securing the loan will be occupied as his or her residence; • the purchasing Veteran must agree to the SOE; and • there must be equal available entitlement from the assuming Veteran in order to substitute his or her entitlement with the Veteran being released of their entitlement. The assumption (ROL) must be completed and closed by the lender. The purchaser must be an eligible Veteran who has sufficient entitlement to substitute for that of the original

Veteran. The purchaser must certify that the property securing the loan will be occupied as his or her residence. The purchasing Veteran must agree to the SOE, and there must be equal available entitlement from the assuming Veteran in order to substitute his or her entitlement with the Veteran being released of their entitlement. Whenever two Veterans intend to follow the SOE process, the servicer should have the Veteran purchaser complete VA Form 26- 8106, Statement of Veteran Assuming GI Loan, (Substitution of entitlement). It should be included in the closing package submitted to VA. A COE for each Veteran should accompany the credit package used to approve the ROL. It is important to verify the purchasing Veteran has sufficient entitlement, is willing to substitute their entitlement, and will meet occupancy requirements to substitute before the closing of the ROL to meet the requirements of an SOE. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-40 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued s. Unrestricted Transfers Certain transfers of ownership, otherwise subject to 38 U.S.C. 3714, do not require prior approval by a holder or VA. Loans may not be accelerated due to these types of transfers. An ROL will not be processed. Processing charges and funding fees may not be assessed. It is permissible to charge a reasonable fee up to \$50 for changing the account records, provided that there is an agreement with the borrower and it is permissible under the loan agreement. Servicers must report unrestricted transfers to VA through VALERI as authorized transfers of ownership, which will typically be handled automatically by their servicing systems. Unrestricted transfers of ownership include: • the creation of a lien or other encumbrance subordinate to the lender's security instrument that does not relate to a transfer of rights of occupancy in the property; • the creation of a purchase money security interest for household appliances; • a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety; • the granting of a leasehold interest of 3 years or less not containing an option to purchase; • a transfer to a relative resulting from the death of a borrower; • a transfer when the spouse or child of the borrower becomes a joint owner of the property with the borrower, • a transfer into an inter-vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; and • a transfer resulting from a decree to dissolve a marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the borrower becomes the sole owner of the property. Continued on next page VA Pamphlet 26-7, Revised Chapter 5: How to Process VA Loans and Submit them to VA 5-41 6. Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued s. Unrestricted Transfers, continued VA does not consider a sale on an installment contract, contract for deed, or similar arrangement in which title is not transferred from the seller to the buyer, to be a "disposition" of property as sale agreements are not subject to 38 U.S.C. 3714. These sale agreements do not require prior approval from the servicer or VA. Borrowers inquiring should be cautioned that any borrower considering a sale in this manner would remain liable for repayment of the loan under such an arrangement. t. Documentation Requirements VA does not require a servicer to change records, even if the agreement calls for the contract purchaser to make payments directly to that servicer. The contract seller is responsible for forwarding payment coupons and other information to the contract purchaser. Depending on the circumstances of a case, servicers may agree to change the account address to read "in care of" the contract purchaser, although the contract seller must promptly advise the servicer of any change in his or her address. Sales by installment contracts typically call for transfer of title after a certain period of time. If the contract calls for title to transfer prior to payment in full of the VA loan, VA requires assumption approval according to the procedures previously discussed. Processing

charges and VA funding fees will be applicable upon transfer. As one of the conditions of the contract, servicers should advise the borrower that the language stating an application for assumption approval will be made, and approval secured, prior to the completion of title transfer. The contract should address the options of both parties if the request for assumption approval is denied. Servicers are required to retain the supporting documentation for all transfers, assumptions, and releases of liability for at least 3 years from approval or denial. An assumption package should be submitted to the RLC of jurisdiction of where the property is located.

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