

## § 36.4504

## 38 CFR Ch. I (7-1-03 Edition)

except that on a construction loan the final installment may be for an amount not in excess of 5 percent of the original principal amount of the loan. The limitations imposed by this paragraph on the amount of the final installment shall not apply in the case of any loan extended or recast pursuant to § 36.4505 or 36.4506.

(Authority: 38 U.S.C. 501, 3703(c)(1), 3711(d)(1), 3712 (f) and (g))

[15 FR 6288, Sept. 20, 1950, as amended at 24 FR 2658, Apr. 7, 1959; 52 FR 12382, Apr. 16, 1987; 52 FR 18357, May 15, 1987; 53 FR 18983, May 26, 1988; 53 FR 44401, Nov. 3, 1988; 53 FR 51551, Dec. 22, 1988; 54 FR 24557, June 8, 1989; 54 FR 30384, July 20, 1989; 55 FR 6983, Feb. 28, 1990; 55 FR 40657, Oct. 4, 1990; 57 FR 37713, Aug. 20, 1992]

### § 36.4504 Loan closing expenses.

(a) Department of Veterans Affairs will designate a loan closer to represent the Department of Veterans Affairs at the closing and in advance thereof will agree with the loan closer upon the fee to be paid by the Department of Veterans Affairs for preparing the loan closing instruments and attending at the closing of the loan. The loan closer as such is neither an agent nor employee of the Department of Veterans Affairs.

(b) With respect to a loan made to a veteran-borrower pursuant to an application (VA Form 26-1802a, received by the Department of Veterans Affairs on or after March 3, 1966, the borrower shall pay the Department of Veterans Affairs the following:

(1) \$50, or one percent (1%) of the loan amount, whichever is greater, which charge shall be in lieu of the loan closer's fee, credit report, and cost of appraisal: *Provided*, That if the loan is to finance the cost of construction, repairs, alterations, or improvements necessitating disbursements of the loan proceeds as the construction or other work progresses, the charge to the veteran-borrower shall be two percent (2%) of the loan amount, but not less than \$50 in any event.

(2)(i) A loan fee of one percent of the total loan amount. All or part of such fee may be paid in cash at loan closing or all or part of the fee may be included in the loan without regard to the reasonable value of the property. In

computing the fee, the Department of Veterans Affairs will disregard any amount included in the loan to enable the borrower to pay such fee. If all or part of the fee is included in the loan, the amount of the loan as increased may not exceed \$33,000.

(Authority: 38 U.S.C. 3729(a))

(ii) The fee described in paragraph (b)(2)(i) of this section shall not be collected from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 3701(b)(2) of title 38 U.S.C.

(Authority: 38 U.S.C. 3729(b))

(iii) Collection of the loan fee described in this paragraph (b)(2) of this section shall not apply to loans closed prior to August 17, 1984, or to loans closed after September 30, 1987.

(Authority: 38 U.S.C. 3729(d))

(3) Costs or expenses normally paid by a purchaser or lienor incident to loan closing including but not limited to the following:

(i) Fee of Department of Veterans Affairs designated compliance inspector;

(ii) Recording fees and recording taxes or other charges incident to recording;

(iii) That portion of taxes, assessments, and other similar items for the current year chargeable to the borrower and the initial deposit (lump-sum payment) for the tax and insurance account;

(iv) Hazard insurance as required by § 36.4512,

(v) Survey, if any;

(vi) Title examination and title evidence.

Charges or costs payable by the veteran-borrower, except as to the payment of the loan fee described in paragraph (b)(2)(i) of this section, shall be paid in cash and may not be paid out of the proceeds of the loan. No service or brokerage fee shall be charged against the veteran-borrower by any third party for procuring a direct loan or in connection therewith.

(c) With respect to a loan to construct, repair, alter, or improve a farm

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residence or other dwelling, the Department of Veterans Affairs may require the veteran to deposit with the Department of Veterans Affairs, or in an escrow satisfactory to the Department of Veterans Affairs, 10 percent of the estimated cost thereof or such alternative sum, in cash or its equivalent, as the Department of Veterans Affairs may determine to be necessary in order to afford adequate assurance that sufficient funds will be available, from the proceeds of the loan or from other sources, to assure completion of the construction, repair, alteration, or improvement in accordance with the plans and specifications upon which the Department of Veterans Affairs based its loan commitment.

(Authority: 38 U.S.C. 501, 3724, and 3729)

[15 FR 6288, Sept. 20, 1950, as amended at 23 FR 2339, Apr. 10, 1958; 33 FR 6976, May 9, 1968; 35 FR 17180, Nov. 7, 1970; 41 FR 32218, Aug. 2, 1976; 47 FR 46700, Oct. 20, 1982; 50 FR 5755, Feb. 12, 1985]

### § 36.4505 Maturity of loan.

(a) The maturity of a loan shall not exceed 25 years and 32 days. If the Department of Veterans Affairs determines the income and expenses of a veteran-applicant under customary credit standards would prevent the veteran from making the required loan payments for a loan which matures in 25 years and 32 days, but the veteran would be able to make the loan payments over a longer period of time, the loan may be made with a maturity not in excess of 30 years and 32 days.

(b) Every loan shall be repayable within the estimated economic life of the property securing the loan.

(c) Nothing in this section shall preclude extension of the loan pursuant to the provisions of § 36.4506.

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

[46 FR 43675, Aug. 31, 1981]

### § 36.4506 Recasting.

In the event of default or to avoid imminent default, the Department of Veterans Affairs may at any time enter into an agreement with the borrower which will permit the latter temporarily to repay the obligation on a basis appropriate to the borrower's ap-

parent current ability to pay or may enter into an appropriate recasting or extension agreement: *Provided*, That no such agreement shall extend the ultimate repayment of a loan beyond the expiration of 30 years and 32 days from the date of the loan. *Provided further*, That nothing in this section shall be deemed to limit the forbearance or indulgence which the Secretary may extend in an individual case pursuant to the provisions of 38 U.S.C. 3720(f).

[46 FR 43675, Aug. 31, 1981]

### § 36.4507 Refinancing of mortgage or other lien indebtedness.

(a) Loans may be made for the purpose of refinancing (38 U.S.C. 3710(a)(5)) an existing mortgage loan or other indebtedness secured by a lien of record on a dwelling or farm residence owned and occupied by an eligible veteran as the veteran's home, provided that:

(1) The amount of the loan does not exceed the sum due the holder of the mortgage or other lien indebtedness on such dwelling or farm residence, and also is not more than the reasonable value of the dwelling or farm residence, and

(2) The loan is otherwise eligible.

(b) A refinancing loan for an amount which exceeds the sum due the holder of the mortgage or other lien indebtedness (the excess proceeds to be paid to the veteran) may also be made, *Provided, That*:

(1) The loan is otherwise eligible, and

(2) The issuance of a commitment to make any such loan for an amount which exceeds eighty (80) percent of the reasonable value of the veteran's dwelling or farm residence shall require, unless the Under Secretary for Benefits otherwise directs, the approval of the Director, Loan Guaranty Service.

(c) Nothing shall preclude making a loan pursuant to the provisions of 38 U.S.C. 3710(a)(5) to an eligible veteran having home loan guaranty entitlement to refinance a loan previously guaranteed insured or made by the Secretary which is outstanding on the dwelling or farm residence owned and occupied or to be reoccupied after the