

§ 36.4201

38 CFR Ch. I (7-1-04 Edition)

36.4375 Reports of insured institutions.

FEDERALLY ASSISTED CONSTRUCTION CONTRACTS—NONDISCRIMINATION IN EMPLOYMENT—EXECUTIVE ORDERS 11246 AND 11375

- 36.4390 Purpose.
- 36.4391 Applicability.
- 36.4392 Certification requirements.
- 36.4393 Complaint and hearing procedure.

ASSISTANCE TO CERTAIN DISABLED VETERANS IN ACQUIRING SPECIALLY ADAPTED HOUSING

- 36.4400 Applicability.
- 36.4401 Definitions.
- 36.4402 Eligibility.
- 36.4403 Joint ownership of housing unit.
- 36.4404 Computation of cost.
- 36.4405 Submission of proof to the Secretary.
- 36.4406 Disbursement of benefit authorized.
- 36.4407 Supplementary administrative action.
- 36.4408 Delegation of authority.
- 36.4409 Guaranteed or insured loans under 38 U.S.C. Chapter 37.
- 36.4410 Allocation of the funds of the grant.
- 36.4411 Geographical limits.

DIRECT LOANS

- 36.4500 Applicability.
- 36.4501 Definitions.
- 36.4502 Use of guaranty entitlement.
- 36.4503 Amount and amortization.
- 36.4504 Loan closing expenses.
- 36.4505 Maturity of loan.
- 36.4506 Recasting.
- 36.4507 Refinancing of mortgage or other lien indebtedness.
- 36.4508 Transfer of property by borrower.
- 36.4509 Joint loans.
- 36.4510 Prepayment, acceleration, and liquidation.
- 36.4511 Advances after loan closing.
- 36.4512 Taxes and insurance.
- 36.4513 Foreclosure and liquidation.
- 36.4514 Eligibility requirements.
- 36.4515 Estate of veteran in real property.
- 36.4516 Lien requirements.
- 36.4517 Incorporation by reference.
- 36.4518 Supplementary administrative action.
- 36.4519 Eligible purposes and reasonable value requirements.
- 36.4520 Delegation of authority.
- 36.4521 Minimum property and construction requirements.
- 36.4522 Waivers, consents, and approvals.
- 36.4523 Geographical limits.
- 36.4524 Sale of loans.
- 36.4525 Requirement of a construction warranty.
- 36.4526 Issuance of fund reservation commitments.
- 36.4527 Direct housing loans to Native American veterans on trust lands.

SALE OF LOANS, GUARANTEE OF PAYMENT

- 36.4600 Sale of loans, guarantee of payment.
- 36.4700 Authority, purpose, and scope.
- 36.4701 Definitions.
- 36.4702 Requirement to purchase flood insurance where available.
- 36.4703 Exemptions.
- 36.4704 Escrow requirement.
- 36.4705 Required use of standard flood hazard determination form.
- 36.4706 Forced placement of flood insurance.
- 36.4707 Determination fees.
- 36.4708 Notice of special flood hazards and availability of Federal disaster relief assistance.
- 36.4709 Notice of servicer's identity.

APPENDIX A TO PART 36—SAMPLE FORM OF NOTICE OF SPECIAL FLOOD HAZARDS AND AVAILABILITY OF FEDERAL DISASTER RELIEF ASSISTANCE

AUTHORITY: 38 U.S.C. 501, 3701-3704, 3707, 3710-3714, 3719, 3720, 3729, 3762, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 36 appear at 61 FR 7217, Feb. 27, 1996.

GUARANTY OF LOANS TO VETERANS TO PURCHASE MANUFACTURED HOMES AND LOTS, INCLUDING SITE PREPARATION

AUTHORITY: Sections 36.4201 through 36.4287 issued under 38 U.S.C. 501, 3701-3704, 3707, 3710-3714, 3719, 3720, 3729.

SOURCE: Sections 36.4201 through 36.4287 appear at 36 FR 1253, Jan. 27, 1971, unless otherwise noted.

NOTE: Those requirements, conditions, or limitations which are expressly set forth in 38 U.S.C. 3712 and are not restated herein must be taken into consideration in conjunction with the §36.4200 series.

§ 36.4201 Applicability of the § 36.4200 series.

The § 36.4200 series shall be applicable to each loan entitled to guaranty under 38 U.S.C. 3712 on or after the date of publication thereof in the FEDERAL REGISTER.

§ 36.4202 Definitions.

Wherever used in 38 U.S.C. 3712 or the § 36.4200 series, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated.

Automatic lender. A lender that may process a loan or assumption without submitting the credit package to the Department of Veterans Affairs for underwriting review. Pursuant to 38

Department of Veterans Affairs

§ 36.4202

U.S.C. 3702(d) there are two categories of lenders who may process loans automatically: (1) Entities such as banks, savings and loan associations, and mortgage and loan companies that are subject to examinations by an agency of the United States or any State and (2) lenders approved by the Department of Veterans Affairs pursuant to standards established by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 3702(d))

Credit package. Any information, report of verifications used by a lender, holder or authorized servicing agent to determine the creditworthiness of an applicant for a Department of Veterans Affairs guaranteed loan or the assumer of such a loan.

(Authority: 38 U.S.C. 3710 and 3714)

Date of first uncured default. The due date of the earliest payment not fully satisfied by the proper application or available credits or deposits.

Default. Failure of a borrower to comply with the terms of a loan agreement.

Guaranty. The obligation of the United States, assumed by virtue of 38 U.S.C. 3712, to repay a specified percentage of a loan upon default of the primary debtor, which guaranty payment shall be made after liquidation of the security for the loan and an accounting with the Secretary.

Holder. The lender or any subsequent assignee or transferee of the guaranteed obligation or the authorized servicing agent of the lender or of the assignee or transferee if the obligation has been assigned or transferred.

Indebtedness. The unpaid principal and interest plus any other amounts allowable under the terms of a loan including those authorized by statute and consistent with the §36.4200 series, which have been paid and debited to the loan account. Unpaid late charges may not be included in the indebtedness.

Lender. The payee or assignee or transferee of an obligation at the time it is guaranteed. This term also includes any sole proprietorship, partnership, or corporation and the owners, officers, and employees of a sole proprietorship, partnership, or corporation

engaged in the origination, procurement, transfer, servicing, or funding of a loan which is guaranteed by VA.

(Authority: 38 U.S.C. 3704(d), 3712(g))

Lien. Any interest in, or power over, real or personal property, reserved by the vendor, or created by the parties or by operation of law, chiefly or solely for the purpose of assuring the payment of the purchase price, or a debt, and irrespective of the identity of the party in whom title to the property is vested, including but not limited to mortgages, deeds with a defeasance therein or collaterally, deeds of trust, security deeds, security instruments, mechanics' liens, lease-purchase contracts, conditional sales contracts, consignments.

Loan. Unpaid principal balance plus unpaid earned interest due under the terms of the obligation.

Lot. A parcel of land acceptable to the Secretary as a manufactured home site.

Manufactured home. A movable dwelling unit designed and constructed for year-round occupancy on land by a single family, which dwelling unit contains permanent eating, cooking, sleeping, and sanitary facilities. A double-wide manufactured home is a movable dwelling designed for occupancy by one family consisting of (1) two or more units intended to be joined together horizontally when located on a site, but capable of independent movement or (2) a unit having a section or sections which unfold along the entire length of the unit.

Manufacturer's invoice. A document, issued by a manufacturer and provided with a manufactured home to a retail dealer, acceptable in form and content to the Secretary which indicates the wholesale (base) price at the factory of the manufactured home model or series including any furnishings, equipment and accessories installed by the manufacturer, net of all rebates to the dealer. The following certification or a reasonable facsimile thereof, signed by an authorized representative of the manufacturer, must appear on the invoice:

"The undersigned certifies that the manufacturer's invoice price shown on this invoice reflects the dealer's cost at point of manufacture, exclusive of any

and all freight or transportation charges, net of any and all discounts, bonuses, refunds, rebates (including volume rebates), prizes or anything of value which will inure to the benefit of the dealer at the time of purchase or at any future date.”

Necessary site preparation. Those improvements essential to render a manufactured home site acceptable to the Secretary including, but not limited to, the installation of utility connections, sanitary facilities and paving, and the construction of a suitable pad.

New manufactured home. A manufactured home which, at the time of purchase by the veteran-borrower, has not been previously occupied and was manufactured less than 1 year prior to the date of application to the Department of Veterans Affairs for loan guaranty.

(Authority: Sec. 406, Pub. L. 97-306)

Reasonable value means that figure which represents the amount a reputable and qualified appraiser, unaffected by personal interest, bias, or prejudice, would recommend to a prospective purchaser as a proper price or cost in the light of prevailing conditions.

Repossession—repossessed means recovery or acquisition of such physical control of property (pursuant to the provisions of the security instrument or as otherwise provided by law) as to make further legal or other action unnecessary in order to obtain actual possession of the property or to dispose of the same by sale or otherwise.

Resale means sale of the property by the holder to a third party for the purpose of liquidating the security for the loan after having acquired the property by repossession, public or private sale, or by any other means.

Secretary. The Secretary of Veterans Affairs, or any employee of the Department of Veterans Affairs authorized to act in the Secretary’s stead.

Servicing agent. An agent designated by the loan holder as the entity to collect installments on the loan and/or perform other functions as necessary to protect the interests of the holder.

(Authority: 38 U.S.C. 3714)

Used manufactured home. A manufactured home which has been previously occupied or which was manufactured more than 1 year prior to date of loan application.

Wholesale (base) price list. The price list(s) as periodically amended, published and distributed by a home manufacturer to all retail dealers in a given marketing area, quoting the actual wholesale (base) price at the factory for specific models or series of manufactured homes, itemized options, itemized furniture, and specialty items offered for sale to such dealers during a specified period of time. All such wholesale (base) prices shall exclude any costs of trade association fees or charges, discounts, refunds, rebates, prizes, loan discount points or other financing charges, or anything else of more than a nominal value of \$10 which will inure to the benefit of a dealer and/or home purchaser at any date, as required to be disclosed in the manufacturer’s invoice. Each price list and amendment shall be retained by the manufacturer for a minimum period of six years from the date of publication to be available to VA and other Federal agencies upon request.

[36 FR 1253, Jan. 27, 1971, as amended at 40 FR 13212, Mar. 25, 1975; 43 FR 37197, Aug. 22, 1978; 44 FR 22723, Apr. 17, 1979; 48 FR 40227, Sept. 6, 1983; 50 FR 13193, Apr. 3, 1985; 54 FR 34988, Aug. 23, 1989; 55 FR 37471, Sept. 12, 1990; 58 FR 29114, May 19, 1993; 58 FR 37858, July 14, 1993]

GENERAL PROVISIONS

§ 36.4203 Eligibility of the veteran for the manufactured home loan benefit under 38 U.S.C. 3712.

(a) To be eligible for the manufactured home loan benefit a veteran must have loan guaranty entitlement for manufactured home purposes available for use. Notwithstanding the provisions of § 36.4205(e), the Secretary may exclude the amount of guaranty entitlement used for any guaranteed manufactured home loan provided:

(1) The property which served as security for the loan has been disposed of by the veteran, or has been destroyed by fire or other natural hazard; and

(2)(i) The loan has been repaid in full or the Secretary has been released from liability as to the loan, or if the