

Department of Veterans Affairs

§ 36.4501

Native American veterans shall be applicable to loans made by the Secretary pursuant to 38 U.S.C. 3761 through 3764.

(Authority: 42 U.S.C. 4012a)

(c) Title 38, U.S.C. chapter 37 is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III. References in the regulations concerning direct loans to veterans to the sections or chapters of title 38, United States Code, shall, where applicable, be deemed to refer to the prior corresponding provisions of the law.

[24 FR 2658, Apr. 7, 1959, as amended at 58 FR 59660, Nov. 10, 1993; 62 FR 5531, Feb. 6, 1997]

§ 36.4501 Definitions.

Wherever used in 38 U.S.C. 3711, 3762 or the regulations concerning direct loans to veterans, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated, namely:

Cost means the entire consideration paid or payable for or on account of the application of materials and labor to tangible property.

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

Dwelling means a building designed primarily for use as a home, consisting of one residential unit only and not containing any business unit.

Energy conservation improvement. An improvement to an existing dwelling or farm residence through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, or through application of a residential energy conservation measure as prescribed in 38 U.S.C. 3710(d) or by the Secretary.

Farm residence means a dwelling located on a farm which is to be occupied by the veteran as the veteran's home.

Guaranty means the obligation of the United States, incurred pursuant to 38 U.S.C. chapter 37, to repay a specified percentage of a loan upon the default of the primary debtor.

Home means a place of residence.

Improvement means any addition or alteration which enhances the utility of the property for residential purposes.

Indebtedness means the unpaid principal and interest plus any other sums a borrower is obligated to pay Department of Veterans Affairs under the terms of the loan instruments or of the regulations concerning direct loans to veterans.

Loan means a loan made to a veteran by Department of Veterans Affairs pursuant to the provisions of 38 U.S.C. 3711 or 3762 and the regulations concerning direct loans to veterans.

Meaningful interest means a leasehold estate or other interest in trust land and any improvements thereon which permits the use, occupancy and enjoyment of that land and any improvements by the grantee. This interest must be capable of being conveyed (1) as security for a loan made under 38 CFR 36.4527, (2) by the grantee to a third party subject to the approval of the tribal organization and the Secretary or designee, and (3) by the Secretary or other foreclosing mortgagee, subject to the provisions of a memorandum of understanding entered into by the Secretary or designee, the tribal organization, and the Bureau of Indian Affairs.

Native American means:

(1) An Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

(2) A native Hawaiian, as defined in section 201(a)(7) of the Hawaiian Homes Commission Act of 1920, (Public Law 67-34, 42 Stat. 108);

(3) An Alaska Native within the meaning provided for the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

(4) A Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 *et seq.*)

Native American veteran means any veteran who is a Native American.

Period of more than 180 days means 181 or more calendar days of continuous active duty.

Purchase price means the entire legal consideration paid or payable upon or

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on account of the sale of property, exclusive of acquisition costs, or for the cost of materials and labor to be applied thereto.

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 proper price or cost in the light of prevailing conditions.

Repairs means any alteration of existing realty which is necessary or advisable for protective, safety, or restorative purposes.

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

Tribal organization has the same meaning given in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)) and includes the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.

Trust land means any land that:

(1) Is held in trust by the United States for Native Americans;

(2) Is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

(3) Is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

(4) Is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

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

(Authority: 38 U.S.C. 3761-3764)

[24 FR 2658, Apr. 7, 1959, as amended at 31 FR 16713, Dec. 30, 1966; 35 FR 17180, Nov. 7, 1970; 40 FR 4143, Jan. 28, 1975; 41 FR 32218, Aug. 2, 1976; 41 FR 44859, Oct. 13, 1976; 45 FR 20472, Mar. 28, 1980; 46 FR 43674, Aug. 31, 1981; 58 FR 59660, Nov. 10, 1993]

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§ 36.4502 Use of guaranty entitlement.

The guaranty entitlement of the veteran obtaining a direct loan which is closed on or after February 1, 1988, shall be charged with the lessor of the loan amount or an amount which bears the same ratio to \$36,000 as the amount of the loan bears to \$33,000. The charge against entitlement of a veteran who obtained a direct loan which was closed prior to the aforesaid date, shall be the amount which would have been charged had the loan been closed subsequent to such date.

(Authority: 38 U.S.C. 3711(d)(2)(A))

[55 FR 40657, Oct. 4, 1990]

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after February 1, 1988, shall not exceed an amount which bears the same ratio to \$33,000 as the amount of the guaranty to which the veterans is entitled under 38 U.S.C. 3710 at the time the loan is made bears to \$36,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by VA shall bear interest at the rate of 7½ percent per annum. Loans solely for the purposes of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 9 percent per annum.

(Authority: 38 U.S.C. 3711(d)(2)(A))

(b) Each loan shall be repayable on the basis of approximately equal monthly installments; except that in the case of loans made for any of the purposes described in clause (2), (3), or (4) of subsection (a) of 38 U.S.C. 3710, such loans may provide for repayment in quarterly, semiannual, or annual installments, provided that such plan of repayment corresponds to the present and anticipated income of the veteran.

(c) The first installment payment on a loan to construct, alter or improve a farm residence or other dwelling may be postponed for a period not exceeding 12 months from the date of the loan instruments. The first installment payment for a loan for the purchase of a dwelling or farm on which there is a