

§ 36.4802 Computation of guaranties or insurance credits.

(a) With respect to a loan to a veteran guaranteed under 38 U.S.C. 3710 the guaranty shall not exceed the lesser of the dollar amount of entitlement available to the veteran or—

(1) 50 percent of the original principal loan amount where the loan amount is not more than \$45,000; or

(2) \$22,500 where the original principal loan exceeds \$45,000, but is not more than \$56,250; or

(3) Except as provided in paragraph (a)(4) of this section, the lesser of \$36,000 or 40 percent of the original principal loan amount where the loan amount exceeds \$56,250; or

(4) The lesser of \$60,000 or 25 percent of the original principal loan amount where the loan amount exceeds \$144,000 and the loan is for the purchase or construction of a home or the purchase of a condominium unit.

(b) With respect to an interest rate reduction refinancing loan guaranteed under 38 U.S.C. 3710(a)(8), (a)(9)(B)(i), or (a)(11), the dollar amount of guaranty may not exceed the greater of the original guaranty amount of the loan being refinanced, or 25 percent of the refinancing loan amount.

(Authority: 38 U.S.C. 3703, 3710)

(c) With respect to a loan for an energy efficient mortgage guaranteed under 38 U.S.C. 3710(d), the amount of the guaranty shall be in the same proportion as would have been provided if the energy efficient improvements were not added to the loan amount, and there shall be no additional charge to the veteran's entitlement as a result of the increased guaranty amount.

(Authority: 38 U.S.C. 3703, 3710)

(d) An amount equal to 15 percent of the original principal amount of each insured loan shall be credited to the insurance account of the lender and shall be charged against the guaranty entitlement of the borrower: Provided, That no loan may be insured unless the borrower has sufficient entitlement remaining to permit such credit.

(e) Subject to the provisions of § 36.4803(g), the following formulas shall govern the computation of the amount

of the guaranty or insurance entitlement which remains available to an eligible veteran after prior use of entitlement:

(1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from \$36,000. The sum remaining is the amount of available entitlement for use, except that:

(i) Entitlement may be increased by up to \$24,000 if the loan amount exceeds \$144,000 and the loan is for purchase or construction of a home or purchase of a condominium; and

(ii) Entitlement for manufactured home loans that are to be guaranteed under 38 U.S.C. 3712 may not exceed \$20,000.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from \$36,000. The sum remaining is the amount of available entitlement for use, except that:

(i) Entitlement may be increased by up to \$24,000 if the loan amount exceeds \$144,000 and the loan is for purchase or construction of a home or purchase of a condominium; and

(ii) Entitlement for manufactured home loans that are to be guaranteed under 38 U.S.C. 3712 may not exceed \$20,000.

(3) If a veteran previously secured a manufactured home loan under 38 U.S.C. 3712, the amount of entitlement used for that loan is subtracted from \$36,000. The sum remaining is the amount of available entitlement for home loans and the sum remaining may be increased by up to \$24,000 if the loan amount exceeds \$144,000 and the loan is for purchase or construction of a home or purchase of a condominium. To determine the amount of entitlement available for manufactured home loans processed under 38 U.S.C. 3712, the amount of entitlement previously used for that purpose is subtracted from \$20,000. The sum remaining is the amount of available entitlement for use for manufactured home loan purposes under 38 U.S.C. 3712.

(Authority: 38 U.S.C. 3703)

(f) For the purpose of computing the remaining guaranty or insurance benefit to which a veteran is entitled,

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loans guaranteed prior to February 1, 2008 shall be taken into consideration as if made subsequent thereto.

(g) A loan eligible for insurance may be either guaranteed or insured at the option of the borrower and the lender, provided that if the Secretary is not advised of the exercise of such option at the time the loan is reported pursuant to §36.4803, such loan will not be eligible for insurance.

(h) A guaranty is reduced or increased pro rata with any deduction or increase in the amount of the guaranteed indebtedness, but in no event will the amount payable on a guaranty exceed the amount of the original guaranty, except where the guaranty has been increased under §36.4815, or the percentage of the total indebtedness corresponding to that of the original guaranty whichever is less. However, on a graduated payment mortgage loan, the percentage of guaranty applicable to the original loan amount pursuant to paragraph (a) of this section shall apply to the loan indebtedness to the extent scheduled deferred interest is added to principal during the graduation period without regard to the original maximum dollar amount of guaranty.

(Authority: 38 U.S.C. 3703(b) and (d))

(i) The amount of any guaranty or the amount credited to a lender's insurance account in relation to any insured loan shall be charged against the original or remainder of the guaranty benefit of the borrower. Complete or partial liquidation, by payment or otherwise, of the veteran's guaranteed or insured indebtedness does not increase the remainder of the guaranty benefit, if any, otherwise available to the veteran. When the maximum amount of guaranty or insurance legally available to a veteran shall have been granted, no further guaranty or insurance is available to the veteran.

(j) Notwithstanding the provisions of paragraph (i) of this section, in computing the aggregate amount of guaranty or insurance housing loan entitlement available to a veteran under this chapter, the Secretary may exclude the amount of guaranty or insurance housing loan entitlement used for any guaranteed, insured, or direct loan under

any one of the following circumstances:

(1)(i) The property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(ii) The loan has been repaid in full; or, the Secretary has been released from liability as to the loan; or, if the Secretary has suffered a loss on such loan, the loss has been paid in full.

(2) A veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct loan, and the veteran-transferee otherwise meets the requirements of this chapter.

(3)(i) The loan has been repaid in full; and

(ii) The loan for which the veteran seeks to use entitlement under this chapter is secured by the same property which secured the loan referred to in the preceding paragraph (j)(3)(i) of this paragraph.

(4) In a case not covered by (j)(1) or (j)(2) of this section, the Secretary may, one time per veteran, exclude entitlement used if:

(i) The loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

(ii) The Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.

(k) The Secretary may, in any case involving circumstances that the Secretary deems appropriate, waive one or more of the requirements set forth in paragraph (j)(1) of this section.

(Authority: 38 U.S.C. 3702(b), 3710)

(l)(1) The amount of guaranty entitlement, available and unused, of an eligible unmarried surviving spouse (whose eligibility does not result from his or her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was his or her spouse) used shall be disregarded. A certificate as to the eligibility of such

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surviving spouse, issued by the Secretary, shall be a condition precedent to the guaranty or insurance of any loan made to a surviving spouse in such capacity.

(Authority: 38 U.S.C. 3701(a))

(2) An unmarried surviving spouse who was a co-obligor under an existing VA guaranteed, insured or direct loan shall be considered to be a veteran eligible for an interest rate reduction refinancing loan pursuant to 38 U.S.C. 3710(a)(8) or (9)(B)(i).

(Authority: 38 U.S.C. 3710(e)(3), 3703(c)(1))

§ 36.4803 Reporting requirements.

(a) With respect to loans automatically guaranteed under 38 U.S.C. 3703(a)(1), evidence of the guaranty will be issuable to a lender of a class described under 38 U.S.C. 3702(d) if the loan is reported to the Secretary not later than 60 days following full disbursement and upon the certification of the lender that:

(1) No default exists thereunder that has continued for more than 30 days;

(2) Except for acquisition and improvement loans as defined in § 36.4801, any construction, repairs, alterations, or improvements effected subsequent to the appraisal of reasonable value, and paid for out of the proceeds of the loan, which have not been inspected and approved upon completion by a compliance inspector designated by the Secretary, have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based; and any deviations or changes of identity in said property have been approved as required in § 36.4804 concerning guaranty or insurance of loans to veterans;

(3) The loan conforms otherwise with the applicable provisions of 38 U.S.C. chapter 37 and of the regulations concerning guaranty or insurance of loans to veterans.

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

(b) Loans made pursuant to 38 U.S.C. 3703(a), although not entitled to automatic insurance thereunder, may, when made by a lender of a class described in 38 U.S.C. 3702(d)(1), be re-

ported for issuance of an insurance credit.

(Authority: 38 U.S.C. 3702(d), 3703(a)(2))

(c) Each loan proposed to be made to an eligible veteran by a lender not within a class described in 38 U.S.C. 3702(d) shall be submitted to the Secretary for approval prior to closing. Lenders described in 38 U.S.C. 3702(d) shall have the optional right to submit any loan for such prior approval. The Secretary, upon determining any loan so submitted to be eligible for a guaranty, or for insurance, will issue a certificate of commitment with respect thereto.

(d) A certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty or insurance upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 60 days thereafter of a supplemental report showing that fact and:

(1) The identity of any property purchased therewith,

(2) That all property purchased or acquired with the proceeds of the loan has been encumbered as required by the regulations concerning guaranty or insurance of loans to veterans,

(3) Except for acquisition and improvement loans as defined in § 36.4801(c), any construction, repairs, alterations, or improvements paid for out of the proceeds of the loan, which have not been inspected and approved subsequent to completion by a compliance inspector designated by the Secretary, have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based; and that any deviations or changes of identity in said property have been approved as required by § 36.4804, and

(4) That the loan conforms otherwise with the applicable provisions of 38 U.S.C. chapter 37 and the regulations concerning guaranty or insurance of loans to veterans.

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

(e) Upon the failure of the lender to report in accordance with the provisions of paragraph (d) of this section, the certificate of commitment shall