

§ 36.4858

38 CFR Ch. I (7-1-08 Edition)

§ 36.4858 [Reserved]

§ 36.4859 Supplemental loans.

(a) Any loan for the alteration, repair, improvement, extension, replacement, or expansion of a home, with respect to which a guaranteed or insured obligation of the borrower is currently outstanding, may be reported for guaranty or insurance coverage, if such loan is made by the holder of the currently outstanding obligation, notwithstanding the fact no guaranty entitlement remains available to the borrower; *Provided*, that if no entitlement remains available the maximum amount payable on the revised guaranty shall not exceed the amount payable on the original guaranty on the date of closing the supplemental loan, and the percentage of guaranty shall be based upon the proportion the said maximum amount bears to the aggregate indebtedness, or, in the case of an insured loan, no additional credit to the holder's insurance account may be made; *Provided* further, that the prior approval of the Secretary shall be required if:

(1) The loan will be made by a lender who is not the holder of the currently guaranteed or insured obligation; or

(2) The loan will be made by a lender not of a class specified in 38 U.S.C. 3702(d); or

(3) An obligor liable on the currently outstanding obligation will be released from personal liability.

(b) In any case in which the unpaid balance of the prior loan currently outstanding is combined or consolidated with the amount of the supplemental loan, the entire aggregate indebtedness shall be repayable in full within the maximum maturity currently prescribed by statute for the original loan. No supplemental loan for the repair, alteration, or improvement of residential property will be eligible for guaranty or insurance unless such repair, alteration, or improvement substantially protects or improves the basic livability or utility of the property involved.

(c) Such loans shall be secured as required in §36.4855; *Provided*, that a lien of lesser dignity than therein specified will suffice if the lien obtained is immediately junior to the lien of the

original guaranteed or insured obligation: *Provided further*, that the liens of successive supplemental loans may be of lesser dignity so long as they are immediately junior to the lien of the last previous guaranteed or insured obligation having a lien of required dignity.

(d) Upon providing or extending guaranty or insurance coverage in respect to any such supplemental loan, the rights of the Secretary to the proceeds of the sale of security shall be subordinate to the right of the holder to satisfy therefrom the indebtedness outstanding on the original and supplemental loans.

(Authority: 38 U.S.C. 3703(c)(1), 3710(b)(6))

§ 36.4860 Condominium loans—general.

(a) *Authority—applicability of other loan guaranty regulations, 38 CFR Part 36.* A loan to an eligible veteran to purchase a one-family residential unit in a condominium housing development or project shall be eligible for guaranty or insurance to the same extent and on the same terms as other loans under 38 U.S.C. 3710 provided the loan conforms to the provisions of chapter 37, title 38 U.S.C., except for sections 3711 (direct loans), and 3727 (structural defects). The loan must also conform to the otherwise applicable provisions of the regulations concerning the guaranty or insurance of loans to veterans. Sections 36.4857, 36.4859, and 36.4869 shall not be applicable.

(b) *Definitions.* On and after July 1, 1979, the following definitions shall be applicable to each condominium loan entitled to be guaranteed or insured, and shall be applicable to such loans previously guaranteed or insured to the extent that no legal rights vested thereunder are impaired. Whenever used in 38 U.S.C. chapter 37 or this subpart, unless the context otherwise requires, the terms defined in this paragraph shall have the meaning stated.

(1) *Affiliate of declarant.* Affiliate of declarant means any person or entity which controls, is controlled by, or is under common control with, a declarant.