

## **CHAPTER 2: VETERAN’S ELIGIBILITY AND ENTITLEMENT**

### **Overview**

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## **Topic 1: How to Establish the Applicant's Eligibility for a VA Loan**

**Change Date:** March 28, 2019

- This chapter has been revised in its entirety.

### **a. What is Eligibility**

Eligibility means the Veteran meets the basic criteria of length of service (LOS) and character of service (COS) for the home loan benefit. Entitlement is the amount a Veteran has available for a guaranty on a loan. An eligible Veteran must still meet credit and income standards in order to qualify for a VA-guaranteed loan.

### **b. The Lender's Role**

The Certificate of Eligibility (COE) issued in WebLGY is the proof of eligibility for the lender.

The lender must ensure the applicant is an eligible Veteran before an appraisal is ordered, the loan cannot be processed or closed. Lenders should never close a loan before they establish eligibility. VA cannot guarantee a loan for an ineligible Veteran.

Once a COE is issued there may be conditions on the COE which must be met in order to receive a guaranty. The conditions that could appear on the COE are:

- Active Duty Service Member (ADSM) - Valid unless discharged or released subsequent to date of this certificate. A certification of continuous active duty as of date of note is required. This COE is not valid if the ADSM was discharged after the date of the certificate. In this instance, a new COE must be obtained.
- Funding Fee – Please fax a copy of VA Form 26-8937 to the Regional Loan Center (RLC) of Jurisdiction. Please have the lender contact the RLC for loan processing.
- Funding Fee – Veteran is not exempt from funding fee due to non service-connected pension. Loan application will require prior approval processing by VA.
- Reserve or National Guard Member – Valid unless discharged or released subsequent to the date of this certificate. A certification of continuous service in the Selected Reserve or National Guard as of the date of the note is required.
- Reserve/National Guard Funding Fee – Entitlement is based on service in the Selected Reserve and/or National Guard so an increased funding fee is required.
- Refinance Restoration – Restored entitlement previously used or charged for a VA Loan Identification Number (LIN) as shown here is available only for use in connection with the property which secured that loan.
- One-Time Restoration – Entitlement previously used for a VA LIN has been restored without disposal of the property, under provision of 38 U.S.C. 3702 (b)(4). Any future restoration requires disposal of all property obtained with a VA loan.
- Subsequent Use Funding Fee – Entitlement code of “5” indicates previously used entitlement has been restored. The Veteran must pay a subsequent use funding fee on any future loan unless the Veteran is exempt.

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*Topic 1: How to Establish the Applicant's Eligibility for a VA Loan, continued*

**b. The Lender's Role, continued**

- Surviving Spouse – Eligibility of the surviving spouse and the validity of guaranty entitlement hereby evidenced will be null and void if any change in marital status occurs, subsequent to the date of this COE and prior to the date a loan to the widow or widower is closed, unless the lender making the loan was not aware of any change in marital status and obtained on the date the loan closed an affidavit from the surviving spouse in the form prescribed by the Secretary.
- Prisoner of War/Missing in Action (POW/MIA) – This certificate evidences eligibility under 38 U.S.C 3701 (b)(3) of the individual named as the spouse of a Servicemember missing in action or prisoner of war. Any unused entitlement will terminate automatically upon the receipt of official notice that the Servicemember is no longer in a category specified in 38 U.S.C. 3701 (b)(3) or upon dissolution of marriage.
- Paid-in-Full Loan – Entitlement charged on a paid-in-full loan cannot be restored until the Veteran applies for restoration of entitlement. The lender shall submit the application electronically through VA's Automated Certificate of Eligibility (ACE) online application.
- Foreclosed Loan – Entitlement charged on a foreclosed loan cannot be restored until VA's loss on the loan has been fully repaid. Information about repayment of the loss may be obtained by contacting an RLC.

Although this chapter discusses some of the basic eligibility criteria, it is not intended to provide a lender with all the knowledge necessary to make an eligibility determination; consequently, all the various exceptions and nuances of eligibility are not included. Appendix 1-A at the end of this chapter provides a quick reference and overview of basic eligibility criteria.

Lenders must use VA's ACE online application to obtain the COE. Go to VA's Information Portal (VIP) and select WebLGY from the applications toolbar; then select Eligibility and follow the prompts. In many cases, a COE can be generated in seconds. If not, lenders should select the link to submit an electronic application. This method allows lenders to upload supporting documentation and submit an application electronically to be processed by one of the RLCs.

A Veteran can apply for a COE through eBenefits at <http://www.ebenefits.va.gov> or, if necessary, by completing VA Form 26-1880, Request for a Certificate of Eligibility and mailing it to the listed RLC. Simultaneous applications may delay COE processing. To ensure quicker responses, it is preferable to apply online.

**c. IRRRL Eligibility Determination**

VA systems will not generate a VA case number for an Interest Rate Reduction Refinancing Loan (IRRRL) if there is no record of an active VA loan. This means if a lender successfully obtains a case number for an IRRRL, a COE is not required.

## **Topic 2: What the Certificate of Eligibility Tells the Lender**

**Change Date:** March 28, 2019

- This chapter has been revised in its entirety.

### **a. Eligibility**

The lender may rely on a COE as proof the Veteran is eligible for the home loan benefit. Although eligible for the home loan benefit, Veterans must still qualify based on income and credit before loan approval is granted.

### **b. Amount of Entitlement**

Entitlement is the amount available for use on a loan. The amount of basic entitlement is \$36,000. This may be reduced if a Veteran has used entitlement before which has not been restored. The amount of basic entitlement will be displayed near the center of the COE. For example it may say:

“THIS VETERAN’S BASIC ENTITLEMENT IS \$ \_\_\_\_\_. TOTAL ENTITLEMENT CHARGED TO PREVIOUS VA LOANS IS \$ \_\_\_\_\_.”

For loans greater than \$144,000, bonus entitlement may be available. For loans greater than \$144,000, but less than \$484,350, the entitlement is 25 percent. For loans greater than \$484,350, the maximum entitlement is 25 percent of the loan limit, which can vary by county. For a list of loan limits by county, visit <http://www.benefits.va.gov/homeloans/lenders.asp>. Please note county limits can change yearly. VA will post the limits for each year on our website as they change.

The Veteran may have entitlement for loans greater than \$144,000, the COE does not reflect the bonus entitlement. Instead, an asterisk by the word “available” refers to a note, which explains the possibility of additional entitlement.

If the Veteran previously used entitlement, which has not been restored, available entitlement is reduced by the amount used on the prior loan(s). The lender has three options in this situation:

- Make the loan knowing that VA’s guaranty is limited to the amount of available entitlement, or
- Have the Veteran apply for restoration of previously used entitlement, or
- The Veteran may provide a downpayment in conjunction with their remaining entitlement.

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*Topic 2: What the Certificate of Eligibility Tells the Lender, continued*

**c. Funding Fee Field and Conditions on the COE**

The “funding fee” field appears near the top of the COE. The exemption status, either “exempt”, “non-exempt” or “contact RLC” will appear to the right of this field:

- Exempt status indicates a Veteran is exempt from paying the funding fee.
- Non-exempt status indicates a Veteran is not exempt from paying the funding fee.
- Contact RLC indicates a system-generated determination is not available, or any loan may need to be submitted to VA as prior approval.

Lenders must be sure to comply with all “conditions” appearing near the middle portion of the COE:

- For COEs with “exempt” status, the following “conditions” may appear:
  - Funding Fee – Veteran is exempt from the funding fee due to receipt of service-connected disability compensation of \$\_\_\_\_\_monthly.
  - Funding Fee – Veteran is exempt from the funding fee due to receipt of service-connected disability compensation. Monthly compensation rate has not been determined to date.
  - Funding Fee – Please fax a copy of [VA Form 26-8937](#) to the VA RLC of jurisdiction.
  - Funding Fee – Please have the lender contact the VA RLC for loan processing. Please fax a copy of [VA Form 26-8937](#) to the RLC of jurisdiction.
- For COEs with a “non-exempt” status, the following “conditions” may appear:
  - Funding Fee – Veteran is not exempt from the funding fee.
  - Funding Fee – Veteran is not exempt from the funding fee due to receipt of non-service-connected pension. Loan application will require prior approval processing by VA.
- For COEs with “contact RLC” status, the following “condition” will appear:
  - Funding Fee – Please fax a copy of [VA Form 26-8937](#) to the RLC of jurisdiction of where the property is located.

**d. IRRRL Exemption Status**

The funding fee exemption status on IRRRLs is displayed in WebLGY at the time the case number is ordered.

**e. Exempt Status and Verified Income**

Lenders may rely on the “exempt” status appearing next to the “funding fee” field for verification of the funding fee exemption. If the dollar amount is different than what is shown on the COE, use the most recent bank statement or award disability award letter for verification. Additionally, on COEs with an “exempt” status, lenders may treat any service-connected disability income amount appearing in the “condition” section of the COE as verified income. There is no need to fax in [VA Form 26-8937](#) to confirm the status or amount showing on the COE.

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*Topic 2: What the Certificate of Eligibility Tells the Lender, continued***f. Additional Conditions Listed on Some COE Forms**

Additional conditions that the lender and Veteran must comply with are listed on the COE, under the conditions heading. The following table provides the actions a lender should take for each condition, if applicable:

**Table 1: Additional COE Conditions**

<b>Condition</b>	<b>What to Do</b>
Valid unless discharged or released subsequent to the date of this certificate. A certification of continuous active duty as of the date of note is required.	Ensure the Veteran is still on active duty before closing the loan. If the Veteran is discharged or released prior to loan closing, request a new COE and do not close the loan until received.
Excluded entitlement previously used for a VA LIN as shown herein is available only for use in connection with the property that secured that loan.	If the entitlement used for the prior loan identified in this condition is needed for the proposed loan, ensure the proposed loan will be secured by the same property as the prior loan. (Cash-out refinance on a prior VA loan.)
Entitlement previously used for a VA LIN has been restored without disposal of the property, under provision of 38 U.S.C. 3702(b)(4). Any future restoration requires disposal of all property or properties obtained with a VA loan.	The Veteran must have proof that all properties with VA-guaranteed loans have been disposed.
The Veteran is not exempt from the funding fee due to receipt of non service-connected pension. Loan application will require prior approval processing by VA.	Non service-connected pension must be submitted to VA for prior approval. Concurrence is required from Pension Service, so allow extra time for processing.
Funding Fee – Please fax a copy of VA Form 26-8937 to the RLC of jurisdiction. Please have the lender contact the RLC for loan processing.	The Veteran has a fiduciary and the loan must be submitted to VA for prior approval. Concurrence is required from Fiduciary Service, so allow extra time for processing.

**g. The “Subsequent Use Funding Fee” Condition**

The “Subsequent Use Funding Fee” indicates the Veteran has used their home loan benefit before, so a higher funding fee is required.

### **Topic 3: How to Apply for a Certificate of Eligibility**

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#### **a. Procedures**

Lenders must first attempt to obtain a COE through the ACE application, which can be accessed through the VIP.

If a COE cannot be obtained immediately, lenders should select the electronic application link that permits them to submit an electronic application. If the COE is issued with reduced entitlement and restoration is needed, use the "Correct COE" function to request an updated COE.

The WebLGY system allows lenders to upload documentation, such as discharge papers or evidence to support restoration (Closing Disclosure, HUD-1 etc.), along with the electronic application. Lenders should not upload scanned documents without first completing an electronic application. Using this feature, rather than mail, is the preferred method, as it greatly reduces processing time.

- Inability to obtain a COE in WebLGY does not mean the Veteran is ineligible, only that the system does not have sufficient information to make an automatic determination. Lenders should always continue the application process as described in the preceding paragraph.
- Application for an Unmarried Surviving Spouses. A surviving spouse of a Veteran, who dies on active duty or from service-connected causes, may still be eligible for a COE. If the surviving spouse is remarried on or after age 57, and on or after December 16, 2003, they still may be eligible. Eligibility may also be granted to the spouse of an active duty member who is listed as MIA or POW for at least 90 days. Eligibility under this MIA/POW provision is limited to one-time use only.
  - Surviving spouses of Veterans who died from non service-connected causes may also be eligible if any of the following conditions are met: (1) the Veteran was rated totally disabled for 10 years or more immediately preceding death; or (2) was rated totally disabled for not less than 5 years from date of discharge or release from active duty to date of death, or (3) the Veteran was a former POW who died after September 30, 1999, and was rated totally disabled for not less than 1 year immediately preceding death. The above eligibility requirements are determined by VA Compensation Department. Once completed, they will determine if the surviving spouse is eligible for qualifying Dependency Indemnity Compensation (DIC).
  - If applying for the first time, surviving spouses must complete VA Form 26-1817, Request for Determination of Loan Guaranty Eligibility-Unmarried Surviving Spouses, instead of VA Form 26- 1880.
  - Both the VA Form 26-1817 and WebLGY should be completed by using the name of the surviving spouse, date of birth, social security number, and then upload the VA Form 26-1817 in WebLGY.

## **Topic 4: Proof of Service Requirements**

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### **a. Discharged Veterans (Regular Military)**

The DD214 Form, *Certificate of Release or Discharge From Active Duty*, will generally contain all the information needed for VA to make an eligibility determination for persons who served on active duty of a regular component of the Armed Forces. The regular Armed Forces include active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard.

- VA will accept legible copies of the DD214 Form.
- Veterans separated after October 1, 1979, should furnish Member Copy 2, 4, 8, or any copy of a DD214 Form that includes the COS and the narrative reason for separation. Veterans separated from military service after January 1, 1950, should have received DD214 Form. Veterans separated from active duty before January 1, 1950, received documentation other than DD214 Form. To be acceptable, it should indicate:
  - LOS, and
  - COS

### **b. Veterans Still on Active Duty**

Proof of service for Veterans on active duty is a Statement of Service (SOS) signed by, or by the direction of, the adjutant, personnel office, or commander of the unit or higher headquarters they are attached to. There is no one unique form used by the military for an SOS. While an SOS is typically on military letterhead, it may also be electronic and both are acceptable. The SOS must clearly show the:

- Veteran's full name,
- social Security Number (SSN) or the last 4 digits of the SSN,
- entry date on active duty,
- duration of lost time, if any, and
- name and point of contact for the command or unit.

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*Topic 4: Proof of Service Requirements, continued*

**c. Discharged Reserve/Guard Members**

There is no one form used by the Reserves or National Guard that is similar to DD214 Form. Selected Reserve describes a member or unit with the Ready Reserve designated by their respective services and approved by the Joint Chiefs of Staff as so essential to initial wartime missions that they have priority over all other reserves.

The National Guard is a unique element of the U.S. Military that serves both community and country. Any state governor or the President of the United States can call on the Guard in a moment's notice.

Discharged members of the Army or Air National Guard may submit NGB Form 22, Report of Separation and Record of Service, and NGB Form 23B, Retirement Points Summary Statement, with the COS document. Members of the Reserves should submit their points statement with COS.

Typically, all members of the Reserves and/or Guard receive an annual retirement points summary which indicates the level and length of participation. The applicant should submit the latest retirement point statement received, along with evidence of honorable service.

VA will accept legible copies.

**d. Current Reserve/Guard Members**

Individuals who are still members of the Reserves/National Guard must provide an SOS signed by, or by the direction of, the adjutant, personnel office, or commander of the unit or higher headquarters they are attached to. There is no one form used uniformly by the military for an SOS. While an SOS is typically on military letterhead, some may be electronic and both are acceptable.

The statement of service must clearly show the:

- Veteran's full name,
- the SSN or the last 4 digits of the SSN,
- entry date of the applicant's Reserve/Guard duty, and
- the unit must state the creditable (actually drilled) years served in the Reserves or the National Guard.

If called to active duty, a copy of the orders must accompany the SOS with the name and point of contact for the command or unit.

The statement must clearly indicate that the applicant is an "active" reservist or National Guard member and not just in a control group (inactive status).

If Veterans cannot locate proof of service, they can request military documents either through the National Archives, <http://www.ebenefits.va.gov/>, or by completing SF- 180, Request Pertaining to Military Records. The completed form should be submitted to the appropriate address shown. It should not be sent to VA.

In many cases, VA internal systems will have sufficient information to make the eligibility determination for those who served on active duty. Lenders and Veterans should not delay requesting a COE pending receipt of requested military documents.

## **Topic 5: Basic Eligibility Requirements**

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### **a. General Rule for Eligibility**

A Veteran is eligible for VA home loan benefits if he or she served on active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard after September 15, 1940, and was discharged under conditions other than dishonorable after either:

- 90 days or more, any part of which occurred during wartime, or
- 181 continuous days or more (peacetime).

### **b. The 2-Year Requirement**

A greater length of service is required for Veterans who:

- enlisted (and service began) after September 7, 1980, or
- entered service as an officer after October 16, 1981

These Veterans must have completed either:

- 24-continuous months of active duty, or
- the full period for which called or ordered to active duty, but not less than 90 days (any part during wartime) or 181 continuous days (peacetime).

Cases involving other than honorable discharges will usually require further development by the VA Compensation Department. This is necessary to determine if the service was under other than dishonorable conditions.

### **c. Wartime and Peacetime Refer to the Following Periods of Service**

**Table 2: Wartime and Peacetime Eras**

<b>Wartime</b>	<b>Peacetime</b>
World War II 9/16/1940 - 7/25/1947	Post World War II period 7/26/1947 - 6/26/1950
Korean conflict 6/27/1950 - 1/31/1955	Post Korean period 2/1/1955 - 8/4/1964
Vietnam era 8/5/64 - 5/7/1975 (The Vietnam era begins 2/28/1961 for those individuals who served in the Republic of Vietnam.)	Post Vietnam period 5/8/1975 - 8/1/1990
Persian Gulf War 8/2/1990 - date to be determined	

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*Topic 5: Basic Eligibility Requirements, continued*

**d. Eligibility for Reserves and/or Guard**

Members of the Reserves and National Guard who are not otherwise eligible for loan guaranty benefits are eligible upon completion of 6 years of service in an active or drilling status in the Reserves or Guard (unless released earlier specifically for a service-connected disability). The applicant must have received an honorable character of discharge. A general or under honorable conditions discharge is not a qualifying or acceptable character of discharge. Service in the Individual Ready Reserve or Control Group (inactive status) is not qualifying length of service for the home loan program.

**e. Basic Eligibility Table**

The table below provides a quick reference to some of the most commonly eligible Veterans. This table is not exhaustive. A Veteran's eligibility for home loan benefits may only be determined by VA.

**f. Eligibility of Spouses of Veterans**

Some spouses of Veterans may have home loan eligibility. They are the:

- unmarried surviving spouse of a Veteran, who died as a result of service or service-connected causes,
- surviving spouse of a Veteran who dies on active duty or from service-connected causes, who remarries on or after age 57 and on or after December 16, 2003, and
- spouse of an active duty member who is listed as MIA or a POW for at least 90 days. Eligibility under this MIA/POW provision is limited to one-time use only.
- surviving spouses of Veterans who died from non service-connected causes may also be eligible if certain conditions are met. Those conditions are found in Topic 3, subsection b(1), of this chapter.
- surviving spouse who is eligible for or in receipt of certain types of Dependency Indemnity Compensation (DIC).

**g. Additional Eligibility**

The table below provides a quick reference to some additional types of eligible Veterans. This table is not exhaustive. A Veteran's eligibility for home loan benefits may only be determined by VA.

**h. Other Qualifying Service**

Congress has periodically granted Veteran status to groups other than members of the Army, Air Force, Navy, Marine Corps, and Coast Guard, such as certain members of the Public Health Service, and cadets at the service academies. Lenders should contact one of the RLCs for assistance when one of these unique cases is encountered.

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*Topic 5: Basic Eligibility Requirements, continued*

**i. Exceptions to LOS**

There are numerous exceptions to the LOS requirements outlined in this section. For example, 1 day of service is sufficient for an individual who is discharged or released from service (regular active duty or Reserve/National Guard) due to a service-connected disability which would be listed on the discharge paperwork. Because of the complexity and number of exceptions, this chapter does not attempt to cover all of them. Because there are exceptions, lenders should not assume a Veteran is not eligible. Instead, they should create an application and allow VA to make a formal determination of eligibility.

**j. When a COE is Denied**

The table below provides a quick reference to some additional types of eligible Veterans. This table is not exhaustive. A Veteran's eligibility for home loan benefits may only be determined by VA.

## **Topic 6: Restoration of Previously Used Entitlement**

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### **a. Basic Restoration**

Entitlement previously used in connection with a VA home loan may be restored under certain circumstances. Once restored, it can be used again for another VA loan. Restoration of previously used entitlement is possible if:

- property which secured the VA-guaranteed loan has been sold, and the loan has been paid in full; or
- eligible Veteran-transferee has agreed to assume the outstanding balance on a VA loan and substitute his or her entitlement for the same amount originally used on the loan. The assuming Veteran, substituting his/her entitlement, must also meet occupancy, income, and credit requirements. This should be completed before requesting the Loan Guaranty Certificate in WebLGY, on the new loan.

### **b. Special Restoration Cases**

In addition to the basic restoration criteria outlined above, a Veteran may obtain restoration of the entitlement used on a prior VA loan under any of the following circumstances:

- Regular “cash-out” refinance where the prior VA loan has been paid in full and the Veteran has made application for a refinance loan to be secured by the same property which secured the prior VA loan. This includes refinancing situations, in which the prior loan will be paid off at closing from a VA refinancing loan on the same property, or
- One –time restoration where the prior VA loan has been paid in full, but the Veteran has not disposed of the property securing the loan. The Veteran may obtain restoration of the entitlement used on the prior loan in order to purchase a different property, one time only. Once such restoration is used, the Veteran’s COE will indicate the one-time restoration. The COE will also advise that any future restoration (purchase or cash-out refinance) will require disposal of all property or properties obtained with a VA loan.

Example. A Veteran used all his entitlement to purchase a home for \$453,100 in a non-high cost county in Maryland. Prior to job relocation to GA, he refinanced the loan to a non-VA loan. The loan was paid in full; however, he still owned the property. He now wants to purchase a home in GA and applies for a one-time restoration. This is possible. If the Veteran wants to use the benefit in the future for another purchase or regular “cash- out” refinancing, both properties would have to be disposed of before entitlement can be restored.

## **Topic 7: Misuse of Veteran's Entitlement**

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- This chapter has been revised in its entirety.

### **a. What Constitutes Misuse?**

A basic requirement of the law governing the VA home loan program is that the Veteran has a bona fide intention of occupying his or her property as a home. Home loan entitlement is not being used properly if the Veteran arranges to sell or convey the property to a third party prior to closing the loan.

### **b. What to Do?**

Contact the VA RLC with jurisdiction over the property for advice regarding any case in which there may be a question regarding the legality of entitlement use.