

CHAPTER 3: The VA Loan and Guaranty

Overview

Topic	Title	Page
1	Basic Elements of a VA-Guaranteed Loan	3-2
2	Eligible Loan Purposes	3-4
3	Maximum Loan	3-6
4	Maximum Guaranty on VA Loans	3-8
5	Occupancy	3-9
6	Interest Rates	3-12
7	Discount Points	3-13
8	Maturity	3-15
9	Amortization	3-16
10	Eligible Geographic Locations for the Secured Property	3-17
11	What Does a VA Guaranty Mean to the Lender?	3-18
12	Post-Guaranty Issues	3-21

Topic 1: Basic Elements of a VA-Guaranteed Loan

Change Date: November 8, 2012, Change 21

- This section has been updated to remove a hyperlink and make minor grammatical edits.

a. General Rules

The following table provides general rules and information critical to understanding a VA loan guaranty. Exceptions and detailed explanations have been omitted. Instead, a reference to the section in this handbook that addresses each subject is provided.

Table 1: General Rules Regarding VA-Guaranteed Loans

Subject	Explanation	Section
Maximum Loan Amount	VA has no specified dollar amount(s) for the “maximum loan.” The maximum loan amount depends upon: <ul style="list-style-type: none"> • the reasonable value of the property indicated on the Notice of Value (NOV), and • the lenders needs in terms of secondary market requirements. 	3 of this chapter
Downpayment	No downpayment is required by VA unless the purchase price exceeds the reasonable value of the property, or the loan is a Graduated Payment Mortgage (GPM). The lender may require a downpayment if necessary to meet secondary market requirements.	3 of this chapter
Amount of Guaranty	Guaranty is the amount VA may pay a lender in the event of loss due to foreclosure.	4 of this chapter
Occupancy	The veteran must certify that he or she intends to personally occupy the property as his or her home.	5 of this chapter
Interest Rate and Points	Interest rate and points are negotiated between the lender and veteran. <ul style="list-style-type: none"> • The veteran and seller may negotiate for the seller to pay all or some of the points. • Points must be reasonable. • Points may not be financed in the loan except with Interest Rate Reduction Refinancing Loans (IRRRLs). 	6 and 7 of this chapter
Purpose of Guaranty	To encourage lenders to make VA loans by protecting lenders/loan holders against loss, up to the amount of guaranty, in the event of foreclosure.	11 of this chapter

Continued on next page

Topic 1: Basic Elements of a VA-Guaranteed Loan, continued

a. General Rules, continued

Table 1: General Rules Regarding VA-Guaranteed Loans, continued

Subject	Explanation	Section
Underwriting	<p>Flexible standards. The veteran must have:</p> <ul style="list-style-type: none"> • satisfactory credit, and • satisfactory repayment ability <ul style="list-style-type: none"> <input type="checkbox"/> stable income <input type="checkbox"/> residual income (net effective income minus monthly shelter expense) in accordance with regional tables, and <input type="checkbox"/> acceptable ratio of total monthly debt payments to gross monthly income (A ratio in excess of 41% requires closer scrutiny and compensating factors.). 	Chapter 4
IRRRL (Streamline Refinancing Loans)	<p>Used to refinance an existing VA loan at a lower interest rate.</p> <ul style="list-style-type: none"> • No appraisal or underwriting is required. • Closing costs may be financed in the loan. • Any reasonable discount points can be charged, but only two discount points can be financed in the loan. • No cash to the borrower. <p><i>Note:</i> A fixed rate loan to refinance a VA Adjustable Rate Mortgage (ARM) may be at a higher interest rate.</p>	Chapter 6
Funding Fee	<p>The veteran must pay a funding fee to help defray costs of the VA Home Loan program.</p> <ul style="list-style-type: none"> • Find the percentage appropriate to the veteran’s particular circumstances on the funding fee table. • Apply this percentage to the loan amount to arrive at the funding fee. <p>The funding fee may always be financed in the loan.</p>	Chapter 8
Closing Costs	<p>Those payable by the veteran are limited by regulation to a specific list of items plus a one percent flat charge by the lender.</p> <ul style="list-style-type: none"> • Any other party, including the seller, can pay any costs on behalf of the veteran. • Closing costs cannot be financed in the loan except on certain refinancing loans. (See chapter 8.) 	Chapter 8
Security Instruments	<p>The lender may use any note or mortgage forms they wish as long as they contain certain VA-required clauses.</p>	Chapter 9

Topic 2: Eligible Loan Purposes

Change Date: November 8, 2012, Change 21

- This section has been updated to make minor grammatical edits.
- Subsection a has been updated to remove information on cooperative units.

a. List of Eligible Loan Purposes

The law authorizes VA to guarantee loans made to eligible veterans only for the following purposes:

- To purchase or construct a residence, including a condominium unit to be owned and occupied by the veteran as a home:
 - the loan may include simultaneous purchase of the land on which the residence is situated or will be situated,
 - loans may also be guaranteed for the construction of a residence on land already owned by the veteran (a portion of the loan may be used to refinance a purchase money mortgage or sales contract for the purchase of the land, subject to reasonable value requirements), and
 - the residential property may not consist of more than four family units and one business unit except in the case of certain joint loans. (See chapter 7 for this exception.)
- To refinance an existing VA-guaranteed or direct loan for the purpose of a lower interest rate.
- To refinance an existing mortgage loan or other indebtedness secured by a lien of record on a residence owned and occupied by the veteran as a home.
- To repair, alter, or improve a residence owned by the veteran and occupied as a home.
- To simultaneously purchase and improve a home.
- To improve a residence owned and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, or through the application of a residential energy conservation measure. These energy efficiency improvement loans can be made in conjunction with any type of VA purchase or refinancing loan.
- To purchase a one-family residential unit in a condominium housing development approved by VA.
- To purchase a farm residence to be owned and occupied by the veteran as a home. If the loan includes the purchase of farmland, the farmland is appraised at its residential value only. (See chapter 11).

Continued on next page

Topic 2: Eligible Loan Purposes, continued

b. Ineligible Loan Purposes

VA cannot guarantee loans made for ineligible loan purposes. Examples of ineligible loan purposes include:

- Purchase of unimproved land with the intent to improve it at some future date (that is, the land purchase is not in conjunction with a construction loan).
- Purchase or construction of a dwelling for investment purposes.
- Purchase or construction of a combined residential and business property, unless,
 - the property is primarily for residential purposes,
 - there is not more than one business unit, and
 - the nonresidential area does not exceed 25 percent of the total floor area.
- Purchase of more than one separate residential unit or lot unless the veteran will occupy one unit and there is evidence that:
 - the residential units are unavailable separately,
 - the residential units have a common owner,
 - the residential units have been treated as one unit in the past, and
 - the residential units are assessed as one unit, or
 - partition is not practical, as when one unit serves the other(s) in some respect; for example, common approaches or driveways.

c. Cash to Veteran Generally Not an Eligible Loan Purpose

Cash to the veteran from loan proceeds is permissible only for certain types of refinancing loans and under very limited circumstances, as follows:

- For IRRRLs, see chapter 6.
- For cash-out refinancing loans, see chapter 6.

For other types of refinancing loans and all purchase/acquisition loans, the veteran generally cannot receive cash from loan proceeds. The only exception is the refund of items for which the veteran paid cash, which were subsequently included in the loan amount.

Example: Earnest money can be refunded to the veteran on a no-downpayment loan.

Topic 3: Maximum Loan Amount

Change Date: November 8, 2012, Change 21

- This section has been updated to correct a hyperlink.
- This section has been updated to make minor grammatical edits.

a. Does VA have Maximum Loan Amounts?

Unlike other home loan programs, there are no maximum dollar amounts prescribed for VA-guaranteed loans.

Limitations on VA loan size are primarily attributable to two factors:

1. Lenders who sell their VA loans in the secondary market must limit the size of those loans to the maximums prescribed by Government National Mortgage Association (GNMA) or whatever conduit they use to sell the loans.
2. VA limits the amount of the loan to the reasonable value of the property shown on the NOV plus the cost of energy efficiency improvements up to \$6,000 plus the VA funding fee, with the following exceptions.

Table 2: VA Maximum Loan Amount Exceptions

Exception	Maximum Loan
IRRRLs	<ul style="list-style-type: none"> • Existing VA loan balance, plus • The cost of any energy efficiency improvements up to \$6,000, plus • Allowable fees and charges, plus • Up to two discount points, plus • VA funding fee. <p>(Lenders must use VA Form 26-8923, IRRRL Worksheet, for the actual calculation.)</p>
Regular refinancing loan (cash-out)	<ul style="list-style-type: none"> • 100 percent of the VA reasonable value, plus • the cost of any energy efficiency improvements up to \$6,000, plus • VA funding fee.

Continued on next page

Topic 3: Maximum Loan Amount, continued

a. Does VA have Maximum Loan Amounts?, continued

Table 2: VA Maximum Loan Amount Exceptions, continued

Exception	Maximum Loan
Loans to refinance are: <ul style="list-style-type: none"> • a construction loan, • an installment land sales contract, or • a loan assumed by the veteran at an interest rate higher than that for the proposed refinancing loan. 	The lesser of: <ul style="list-style-type: none"> • the VA reasonable value, or • the sum of the outstanding balance of the loan plus allowable closing costs and discounts, plus • For construction loans, “balance of the loan” includes the balances of construction financing and lot liens, if any. • the cost of any energy efficiency improvements up to \$6,000, plus • VA funding fee.
Graduated Payment Mortgage (GPM) loan on existing property.	<ul style="list-style-type: none"> • The VA reasonable value, minus • the highest amount of negative amortization, plus • the cost of any energy efficiency improvements up to \$6,000, plus • VA funding fee. <p><i>Reference:</i> See chapter 7.</p>
GPM loan on new home	97.5 percent lesser of: <ul style="list-style-type: none"> • the VA reasonable value or • the purchase price, plus • the cost of any energy efficiency improvements up to \$6,000, plus • VA funding fee. <p><i>Reference:</i> See chapter 7</p>

b. Downpayment

Because VA loans can be for the full reasonable value of the property, no downpayment is required by VA except in the following circumstances:

- If the purchase price exceeds the reasonable value of the property, a downpayment in the amount of the difference must be made in cash from the borrower’s own resources, and
- VA requires a downpayment on all GPMs.

If a veteran has less than full entitlement available, a lender may require a downpayment in order to make the veteran a loan that meets GNMA or other secondary market requirements. The “rule of thumb” for GNMA is that the VA guaranty, or a combination of VA guaranty plus downpayment and/or equity, must cover at least 25 percent of the loan.

Topic 4: Maximum Guaranty on VA Loans

Change Date: November 8, 2012, Change 21

- This section has been updated to note that Public Law 112-154 extended the temporary guidance increase from December 31, 2011 to December 31, 2014.
- This section has been updated to correct hyperlinks and make minor grammatical edits.

a. Maximum Guaranty Table

Public Law 112-154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, signed August 6, 2012, extended the temporary increase in the maximum guaranty. The increase expired December 31, 2011, but Public Law 112-154, extended it through December 31, 2014. The maximum guaranty varies depending on the location of the property. While VA does not have a maximum loan amount, there are effective “loan limits” for high-cost counties. The limits are derived by considering both the median home price for a county and the Freddie Mac conforming loan limit. To aid lenders in determining the maximum guaranty in high-cost counties, VA has created a Loan Limit chart, with instructions. This will be updated yearly.

- In general, maximum guaranty, assuming the veteran has full entitlement, is as shown in the table below.

Table 3: Maximum Potential Guaranty by Loan Amount

Loan Amount	Maximum Potential Guaranty	Special Provisions
Up to \$45,000	50 percent of the loan amount.	Minimum guaranty of 25 percent on IRRRLs.
\$45,001 to \$56,250	\$22,500	Minimum guaranty of 25 percent on IRRRLs
\$56,251 to \$144,000	40 percent of the loan amount, with a maximum of \$36,000	Minimum guaranty of 25 percent on IRRRLs
\$144,001 to \$417,000	25 percent of the loan amount	Minimum guaranty of 25 percent on IRRRLs
Greater than \$417,000	The lesser of: <ul style="list-style-type: none"> • 25 percent of the VA county loan limit, or • 25 percent of the loan amount 	Minimum guaranty of 25 percent on IRRRLs

Note: The percentage and amount of guaranty is based on the loan amount including the funding fee portion when the fee is paid from loan proceeds.

For the maximum guaranty on loans for manufactured homes that are not permanently affixed (i.e., not considered real estate) see 38 U.S.C. 3712 and/or contact VA.

Topic 5: Occupancy

Change Date: November 8, 2012, Change 21

- Subsection c has been updated to note that Public Law 112-154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, signed August 6, 2012, expands occupancy to include dependent children.
- This section has been updated to correct hyperlinks and make minor grammatical edits.

a. The Law on Occupancy

The law requires a veteran obtaining a VA-guaranteed loan to certify that he or she intends to personally occupy the property as his or her home. As of the date of certification, the veteran must either:

- personally live in the property as his or her home, or
- intend, upon completion of the loan and acquisition of the dwelling, to personally move into the property and use it as his or her home within a reasonable time.

The above requirement applies to all types of VA-guaranteed loans except IRRRLs. For IRRRLs, the veteran need only certify that he or she previously occupied the property as his or her home.

Example: A veteran living in a home purchased with a VA loan is transferred to a duty station overseas. The veteran rents out the home. He/she may refinance the VA loan with an IRRRL based on previous occupancy of the home.

b. What is a "Reasonable Time?"

Occupancy within a "reasonable time" means within 60 days after the loan closing. More than 60 days may be considered reasonable if both of the following conditions are met:

- the veteran certifies that he or she will personally occupy the property as his or her home at a specific date after loan closing, and
- there is a particular future event that will make it possible for the veteran to personally occupy the property as his or her home on a specific future date.

Occupancy at a date beyond 12 months after loan closing generally cannot be considered reasonable by VA.

Continued on next page

Topic 5: Occupancy, continued

c. Occupancy by Veteran’s Spouse or Dependent Child

Occupancy (or intent to occupy) by the spouse or dependent child satisfies the occupancy requirement for a veteran who is on active duty and cannot personally occupy the dwelling within a reasonable time. In the case of a dependent child, the veteran’s attorney-in-fact or legal guardian of the dependent child must make the certification and sign VA Form 26-1820, Report and Certification of Loan Disbursement.

Occupancy by the spouse may also satisfy the requirement if the veteran cannot personally occupy the dwelling within a reasonable time due to distant employment other than military service. In these specific cases, consult your Regional Loan Center (RLC) to determine if this type of occupancy meets VA requirements.

Note: The cost of maintaining separate living arrangements should be considered in underwriting the loan.

For an IRRRL, a certification that the spouse or dependent child (or children) previously occupied the dwelling as a home will satisfy the requirement.

d. Occupancy Requirements for Deployed Active Duty Servicemembers

Single or married servicemembers, while deployed from their permanent duty station, are considered to be in a temporary duty status and able to meet the occupancy requirement. This is true without regard to whether or not a spouse will be available to occupy the property prior to the veteran’s return from deployment.

e. Occupancy After Retirement

If the veteran states that he or she will retire within 12 months and wants a loan to purchase a home in the retirement location:

- Verify the veteran’s eligibility for retirement on the specified date.
 - Include a copy of the veteran’s application for retirement submitted to his or her employer.
- Carefully consider the applicant’s income after retirement.
 - If retirement income alone is insufficient, obtain firm commitments from an employer that meet the usual stability of income requirements.

Note: Only retirement on a specific date within 12 months qualifies. Retirement “within the next few years” or “in the near future” is not sufficient.

f. Delayed Occupancy Due to Property Repairs or Improvements

Home improvements or refinancing loans for extensive changes to the property which will prevent the veteran from occupying the property while the work is being completed, constitute exceptions to the “reasonable time” requirement.

The veteran must certify that he or she intends to occupy or reoccupy the property as a home upon completion of the substantial improvements or repairs.

Continued on next page

Topic 5: Occupancy, continued

g. Intermittent Occupancy

The veteran need not maintain a physical presence at the property on a daily basis. However, occupancy “as the veteran’s home” implies that the home is located within reasonable proximity of the veteran’s place of employment. If the veteran’s employment requires the veteran’s absence from home a substantial amount of time, the following two conditions must be met:

- the veteran must have a history of continuous residence in the community, and
- there must be no indication that the veteran has established, intends to establish, or may be required to establish, a principal residence elsewhere.

Use of the property as a seasonal vacation home does not satisfy the occupancy requirement.

h. Unusual Circumstances

Discuss unusual circumstances of occupancy with the appropriate VA office or submit a description of the circumstances to the VA office for prior approval.

i. The Certification

The veteran certifies that the occupancy requirement is met by checking the appropriate occupancy block and signing:

- VA Form 26-1802a, HUD/VA Addendum to the Uniform Residential Loan Application, at the time of loan application (prior approval loans only), and
- VA Form 26-1820, Report and Certification of Loan Disbursement, at the time of loan closing (all loans).

This satisfies the lender’s obligation to obtain the veteran’s occupancy certification.

The lender may accept the occupancy certification at face value unless there is specific information indicating the veteran will not occupy the property as a home or does not intend to occupy within a reasonable time after loan closing.

Where doubt exists, the test is whether a reasonable basis exists for concluding that the veteran can and will occupy the property as certified. Contact the appropriate VA office if the lender cannot resolve issues involving the veteran’s intent by applying this test.

Topic 6: Interest Rates

Change Date: November 8, 2012, Change 21

- This section has been updated to make minor grammatical edits.

a. Requirement

VA no longer prescribes interest rates for VA-guaranteed loans. The interest rate is negotiated between the veteran-borrower and the lender to allow the veteran to obtain the best available rate.

b. Changes to the Agreed Upon Interest Rate

The lender and borrower are expected to honor any lock-in or other agreements they have entered into which impact the interest rate on the loan. VA does not object to changes in the agreed upon rate, as long as no lender/borrower agreements are violated. The following procedure applies in such cases.

Any increase in the interest rate of more than one percent requires:

- re-underwriting to ascertain the veteran's continued ability to qualify for the loan,
- documentation of the change, and
- a new or corrected Uniform Residential Loan Application, (URLA) with any corrections initialed and dated by the borrower.

Reference: For prior approval loans, see chapter 5.

Topic 7: Discount Points

Change Date: November 12, 2012, Change 21

- This section has been updated to make minor grammatical edits.

a. Requirement

Veterans may pay reasonable discount points on VA-guaranteed loans. The amount of discount points is whatever the borrower and lender agree upon. Discount points can be based on the principal amount of the loan after adding the VA funding fee, if the funding fee will be paid from loan proceeds.

b. When Can Points be Included in the Loan?

Discount points may be rolled into the loan only in the case of refinancing loans, subject to the following limitations:

Interest Rate Reduction Refinancing Loans

A maximum of two discount points can be rolled into the loan.

If the borrower pays more than two points, the remainder must be paid in **cash**.

Refinancing of Construction Loans, etc.

Loans to refinance are:

- a construction loan,
- an installment land sales contract, or
- a loan assumed by the veteran at an interest rate higher than that for the proposed refinancing loan.

Any reasonable amount of discount points may be rolled into the loan as long as the sum of the outstanding balance of the loan plus allowable closing costs and discount points does not exceed the VA reasonable value.

Reference: See the maximum loan limitations in section 3 of this chapter.

Cash-out Refinancing Loans

While discount points cannot specifically be included in the loan amount, the borrower can receive cash from loan proceeds, subject to maximum loan limits (See section 3 of this chapter). The cash received by the borrower can be used for any purpose acceptable to the lender, including payment of reasonable discount points.

Continued on next page

Topic 7: Discount Points, continued

c. Changes to the Agreed Upon Discount Points

The lender and borrower are expected to honor any agreements they have entered into which impact the discount points paid on the loan. VA does not object to changes in the agreed upon points, as long as no lender/borrower agreements are violated. The following procedures apply in such cases.

Any increase in discount points requires:

- verification that the borrower has sufficient assets to cover the increase,
- documentation of the change, and
- a new or corrected URLA with any corrections initialed and dated by the borrower.

Reference: For prior approval loans, see chapter 5.

Topic 8: Maturity

Change Date: April 10, 2009, Change 9

- This section has been updated to correct hyperlinks and make minor grammatical edits.

a. Maximum Maturity

- Amortized loans: 30 years and 32 days,
- Nonamortized loans: 5 years.

In addition, every loan must be repayable within the estimated economic life of the property securing the loan.

The period for repayment of a loan is measured from the date of the note or other evidence of indebtedness.

b. Maturity Extending Beyond the Maximum

VA regulations provide that any amounts, which fall due beyond the maximum maturity automatically, fall due on the maximum maturity date.

Thus, if a lender inadvertently makes a loan that exceeds the maximum maturity, it may still be subject to guaranty.

However, the regulations also limit the amount that can be collected as a final installment, such as, they prohibit excessive ballooning. The holder of a loan that violates this provision may desire to correct the situation through means which are legally proper in the jurisdiction.

Topic 9: Amortization

Change Date: November 8, 2012, Change 21

- This section has been updated to correct hyperlinks and make minor grammatical edits.

a. Requirement

All VA loans must be amortized if the maturity date is beyond 5 years from the date of the loan. Loans with terms less than 5 years are considered term loans and need not be amortized.

Generally, for amortized VA loans:

- payments must be approximately equal,
- principal must be reduced at least once annually, and
- the final installment must not exceed two times the average of the preceding installments.

Exceptions to these requirements are made in the case of:

- GPMs – See chapter 7,
- Growing Equity Mortgages (GEMs) – See chapter 7,
- alternative amortization plans prior approved by VA,
- and construction loans.

b. Alternative Amortization Plans

Certain amortization plans which do not meet the requirements described in subsection a above may be used if approved in advance by VA. A lender may submit an amortization plan to VA for prior approval if the plan:

- is generally recognized; that is, is used extensively by established lending institutions, but
- does not meet the requirements of approximately equal periodic payments and a reduction in principal not less often than annually.

Exception: GPMs and GEMs.

c. Special Provisions for Construction Loans

See “Amortization” in section 2 of chapter 7.

d. Standard and Springfield Plans

The Standard and Springfield plans satisfy VA amortization requirements.

- The Standard plan provides for equal payments over the life of the loan. The amount applied to interest decreases, with a corresponding increase in the amount applied to principal.
- The Springfield plan provides for gradually decreasing payments over the life of the loan. The amount applied to interest decreases, while the amount applied to principal remains constant.

Topic 10: Eligible Geographic Locations for the Secured Property

Change Date: April 10, 2009, Change 9

- This section has been updated to correct hyperlinks and make minor grammatical edits.

a. Where Can the Property be Located?

Real property securing a VA-guaranteed loan must be located in the United States, its territories, or possessions (Puerto Rico, Guam, Virgin Islands, American Samoa and the Northern Mariana Islands).

Topic 11: What Does a VA Guaranty Mean to the Lender?

Change Date: November 8, 2012, Change 21

- This section has been updated to make minor grammatical edits.

a. Protection Against Loss

VA guarantees a portion of the loan, identified on the VA Loan Guaranty Certificate (LGC) by percentage and dollar amounts. If a loss ultimately occurs on the loan, VA will reimburse the loan holder for all or part of such loss:

- limited by the stated percentage and dollar amount of the guaranty,
- limited by any VA maximums for reasonable and customary foreclosure expenses, and
- subject to the lender's compliance with applicable law and regulations.

b. Lender Responsibility

It is the lender's responsibility to comply with all laws and regulations related to the VA Home Loan program, and thereby prevent VA's denial or reduction of a payment on a future claim. A lender can accomplish this by ensuring that its employees who perform work related to VA lending:

- understand and comply with VA policies, procedures and regulations, and applicable law, and
- direct questions to VA when issues arise that are not addressed in this handbook or other materials provided by VA.

c. When is a Loan that was Closed Automatically Guaranteed?

A loan is automatically guaranteed by VA upon closing (prior to issuance of the LGC) provided the loan was made by:

- a supervised or a non-supervised lender with automatic authority, and
- the lender complied with applicable law and regulations.

d. When is a Prior Approval Loan Guaranteed?

A prior approval loan is also guaranteed by VA upon closing (prior to issuance of the LGC) provided:

- the closed loan matches the proposed loan upon which the Certificate of Commitment was based, and
- the lender complied with applicable law and regulations.

Continued on next page

Topic 11: What Does a VA Guaranty Mean to the Lender, continued

e. What is Evidence of Guaranty?

Evidence of guaranty is VA Form 26-1899, Loan Guaranty Certificate, which is generated electronically via VA's webLGY application. The LGC represents tangible proof to the lender that VA's guaranty is given in good faith. It is contingent upon:

- the veteran, property and purpose of the loan being eligible,
- no fraud or material misrepresentation on the part of the lender, and
- the lender's compliance with applicable law and regulations.

For example, VA may deny or reduce payment on a future claim based on the lender or holder's noncompliance whether or not VA has issued evidence of guaranty on the loan.

The LGC also has an audit indicator that, if noted Yes, lets the lender know the case has been identified for full review. In these instances, the lender then needs to submit a complete loan origination package to the appropriate VA office for review. Packages should be submitted within 15 days of the LGC being generated.

f. Total Loss of Guaranty

Willful fraud or material misrepresentation by the lender or holder, or by an agent of either, will relieve VA of liability for payment of any claim on the loan. VA also has no liability in the case of:

- forgery on the note, mortgage, loan application, or other loan documents, or
- a Certificate of Eligibility or discharge papers that are counterfeited, falsified, or not issued by the Government.

A holder of a VA loan who acquired the loan without notice or knowledge of fraud or material misrepresentation in procuring the guaranty will not be denied payment of any claim on the loan by reason of such fraud or material misrepresentation.

Continued on next page

Topic 11: What Does a VA Guaranty Mean to the Lender, continued

g. Partial Loss of Guaranty

A holder of a VA loan who fails to comply with applicable laws and regulations may receive only partial payment of a claim if VA's liability increases due to the holder's noncompliance. Material misrepresentation which is not willful has the same consequence.

No claim will be paid on such loan until the amount of any increase in VA's liability is known. The burden of proof is on the holder to establish that VA's increased liability is not due to the holder's noncompliance or misrepresentation.

Examples of noncompliance with applicable law and regulations which may lead to an increase in VA's liability include:

- failure to obtain and retain the required lien on property to secure the loan,
- failure to include the power to substitute trustees,
- failure to procure and maintain insurance coverage,
- failure to advise VA as to default,
- failure to provide notice of intention to begin foreclosure action,
- failure to provide notice to VA in any suit or action, or notice of sale,
- improper release, conveyance, substitution or exchange of security,
- lack of legal capacity of a party to the transaction,
- failure to assure that escrowed/earmarked funds are expended in accordance with the agreement, and
- failure to take into consideration limitations upon the quantum or quality of the estate or property.

Topic 12: Post-Guaranty Issues

Change Date: November 8, 2012, Change 21

- This section has been changed to include hyperlinks.

a. Corrections to LGCs

LGCs are generated using data entered from several sources, including the VA Funding Fee Payment System (VA FFPS) <https://www.ffps.vba.va.gov/>. If a lender discovers an error in reported data, such as date of loan closing, before they have generated the LGC, they must access the VA FFPS system to make the correction. This will then result in the correct closing date being shown when the LGC is obtained.

If the error is discovered **after** the LGC has been generated, lenders will need to contact the appropriate VA RLC for assistance. An LGC with minor typographical errors that do not compromise accurate identification of the loan is valid.

b. Replacement of Missing LGC with Duplicate

A lender may obtain duplicate LGCs at any time simply by accessing the system and reprinting the LGC.

c. Transfer of Loans

It is not necessary to notify VA of the assignment of a guaranteed loan.

d. Loan Assumptions

The assumption of VA-guaranteed loans for which commitments were made on or after March 1, 1988, requires the approval of VA (or certain lenders on VA's behalf).

e. Paid-in-Full Loans

Holders of VA-guaranteed loans are required to electronically report the date the loan was paid-in-full in the VA Loan Electronic Reporting Interface (VALERI) system. Lenders are required to report paid-in-full loans to VA upon full satisfaction of the loan by payment or otherwise.

Lenders/servicers are not required to mail LGCs to VA when a loan is terminated. Since this information will now be reported through VALERI, there is no need to have the actual LGC returned to VA upon termination of the loan.

Continued on next page

Topic 12: Post-Guaranty Issues, continued

f. Maintenance of Loan Records

Lenders must maintain copies of all loan origination records on VA-guaranteed home loans for at least 2 years from the date of loan closing. Even if the loan is sold, the original lender must maintain these records (or legible copies) for the required period.

Loan origination records include:

- the loan application (including any preliminary application),
- verifications of employment and deposit,
- all credit reports (including preliminary credit reports),
- copies of each sales contract and addendum,
- letters of explanation for adverse credit items, discrepancies and the like,
- direct references from creditors,
- correspondence with employers,
- appraisal and compliance inspection reports,
- reports on termite and other inspections of the property,
- builder change orders, and
- all closing papers and documents.

Lenders must make these records accessible to VA personnel conducting audit reviews.