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Title 38, Part 36

Loan Guaranty

Veterans Benefits Administration

Supplement No. 33

Covering period of *Federal Register* issues
through October 3, 2009

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Supplemental Materials for *Book H*

Code of Federal Regulations

Title 38, Part 36

Loan Guaranty

Veterans Benefits Administration

Supplement No. 33

5 October 2009

Covering the period of Federal Register issues
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FILING INSTRUCTIONS

**Book H, Supplement No. 33
October 5, 2009**

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HIGHLIGHTS

Book H, Supplement No. 33 October 5, 2009

Supplement Highlights references: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book H (*Loan Guaranty*) was originally supplemented four times a year, in January, April, July and October. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 24 September 2009, the VA published a final rule, effective 26 October 2009, to amend the Loan Guaranty regulations in order to authorize VA to provide for automatic annual increases in the dollar amounts available to certain Specially Adapted Housing grant recipients. Change:

- Added a new §36.4412 to Subpart C of Part 36.



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Subpart C—Assistance to Certain Disabled Veterans in Acquiring Specially Adapted Housing

Note: Those requirements, conditions, or limitations expressly set forth in 38 U.S.C. Chapter 21 and not restated herein must be taken into consideration in conjunction with the regulations in §§36.4401 to 36.4410.

[24 FR 2657, Apr. 7, 1959]

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Subpart C—Assistance to Certain Disabled Veterans in Acquiring Specially Adapted Housing

§36.4400 Applicability.

References in the regulations pertaining to assistance to certain disabled veterans in acquiring specially adapted housing to 38 U.S.C. chapters 21 and 37, shall where applicable, be deemed to refer also to the prior corresponding provision of the law.

[24 FR 2657, Apr. 7, 1959]

§36.4401 Definitions.

Wherever used in 38 U.S.C. Chapter 21 or §§36.4401 through 36.4410, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated; namely:

(a) *Secretary*. The Secretary of Veterans Affairs or any employee of the Department of Veterans Affairs authorized to act in the Secretary's stead.

(b) *Chapter 21*. Chapter 21 of title 38, U.S.C.

(c) *Movable facilities*. Such exercising equipment and other aids as may be allowed or required by the Chief Medical Director or designee.

(d) *Necessary land*. Any plot of land the cost and area of which are not disproportionate to the type of improvements thereon and which is in keeping with the locality.

(e) *Special fixtures and necessary adaptations*. Construction features which are specially designed to overcome the physical limitations of the individual beneficiary and which are allowed or required by the Chief Medical Director or designee as necessary by nature of the qualifying disability.

(f) *Housing unit*. A family dwelling or unit approved by the Veterans Health Services and Research Administration as medically feasible for occupancy as a home by the individual beneficiary, including the land, improvements, and all appurtenances, together with such movable facilities or special features as are authorized under the definitions of those terms in §§36.4401 through 36.4410.

(g) *Remodeling*. Any alterations, repairs, or improvements necessary or desirable to the housing unit, as defined in §§36.4401 through 36.4410.

(h) *Veteran's family*. Persons related by blood, marriage, or adoption. (Authority: 38 U.S.C. 2101(b))

[24 FR 2657, Apr. 7, 1959, as amended at 46 FR 43673, Aug. 31, 1981]

§36.4408 Delegation of authority.

(a) Except as hereinafter provided, each employee of the Department of Veterans Affairs heretofore or hereafter appointed to, or lawfully filling, any position designated in paragraph (b) of this section is hereby delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Secretary with respect to assisting eligible veterans to acquire specially adapted housing.

(b) Designated positions:

Under Secretary for Benefits
Director, Loan Guaranty Service
Assistant Director for Construction and Valuation
Chief, Specially Adapted Housing Unit, Loan Guaranty Service
Director, Medical and Regional Office Center
Director, VA Regional Office and Insurance Center
Director, VA Regional Office
Loan Guaranty Officer
Assistant Loan Guaranty Officer

(c) Nothing in this section shall be construed to authorize any employee designated in paragraph (b) of this section to determine basic eligibility or medical feasibility, except as otherwise authorized.

[13 FR 7282, Nov. 27, 1948, as amended at 19 FR 3225, June 2, 1954; 46 FR 43674, Aug. 31, 1981; 61 FR 28059, June 4, 1996]

Supplement *Highlights* reference: 15(1)

§36.4409 Guaranteed or insured loans under 38 U.S.C. chapter 37.

In any case where, in addition to the benefits of chapter 21, the veteran will utilize the veteran's entitlement to the loan guaranty or insurance benefits of 38 U.S.C. chapter 37, the complete transaction must be in accord with applicable regulations promulgated thereunder excepting §36.4306 thereof.

[24 FR 2657, Apr. 7, 1959, as amended at 46 FR 43674, Aug. 31, 1981]

§36.4410 Allocation of the funds of the grant.

Any amount payable as a grant under section 2101(a), chapter 21 may be required by the Secretary to be utilized as the Secretary deems advisable for payment of any of the following costs or debts which are obligations of the veteran before any part of the grant may be paid to the veteran directly:

- (a) Cost of necessary land,
- (b) Cost of constructing, adapting, or remodeling a housing unit,
- (c) Delinquent taxes secured by a lien on the housing unit,
- (d) Reduction or retirement of any indebtedness incurred in connection with the purchase, construction, or remodeling of a housing unit on which the grant is made.

[13 FR 7283, Nov. 27, 1948, as amended at 46 FR 43674, Aug. 31, 1981]

§36.4411 Geographical limits.

Any real property purchased, constructed, altered, improved, repaired, or specially adapted, in whole or in part, with the proceeds of any specially adapted housing grant, shall be situated in the United States, which, for purposes of 38 U.S.C. chapter 21, is defined as the several States, Territories and possessions, including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa the Commonwealth of the Northern Mariana Islands, and any other area over which the United States may, at some future date, acquire sovereignty. (Authority: 38 U.S.C. 501, 2101(a) and (b))

[47 FR 29231, July 6, 1982]

§36.4412 Annual adjustments to the aggregate amount of assistance available.

(a) On October 1 of each year, the Secretary will increase the aggregate amounts of assistance available for grants authorized under 38 U.S.C. 2101(a) and 2101(b). Such increase will be equal to the percentage by which the Turner Building Cost Index for the most recent calendar year exceeds that of the next preceding calendar year.

(b) Notwithstanding paragraph (a) of this section, if the Turner Building Cost Index for the most recent full calendar year is equal to or less than the next preceding calendar year, the percentage increase will be zero.

(c) No later than September 30 of each year, the Secretary will publish in the *Federal Register* the aggregate amounts of assistance available for the upcoming fiscal year. (Authority: 38 U.S.C. 2102(e))

[74 FR 48659, Sept. 24, 2009]

Supplement *Highlights* reference: 33(1)

Next Section is §36.4500

Reserved