

Regarding Determinations of Spousal Status When Processing Applications for VA-Guaranteed Home Loans

1. Purpose and Intent. The Department of Veterans Affairs (VA) is issuing this policy to clarify the way that lenders should process and underwrite home loan applications when applicants assert that they are married. Effective immediately, lenders may accept a Veteran's assertion of spousal status when a Veteran is applying for home loan benefits.

2. Discussion. On June 26, 2015, the Supreme Court held, in *Obergefell v. Hodges*, that the Fourteenth Amendment of the U.S. Constitution requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-State. Accordingly, VA may now recognize all same-sex marriages without regard to a Veteran's state of residence.

a. The administrations within VA will apply the same level of scrutiny to all Veterans' marriages, regardless of whether they are same-sex or opposite-sex marriages. VA will therefore process claims and applications involving same-sex marriage in the same manner as claims and applications based on opposite-sex marriage, without any additional scrutiny or development.

b. To further implement this policy of equal treatment, VA will accept a claimant's or applicant's assertion that he or she is married as sufficient evidence to establish the Veteran's marriage. For the purposes of home loan benefits administered by Loan Guaranty Service, VA will accept an assertion on VA Form 26-1802a, *HUD/VA Addendum to Uniform Residential Loan Application*, to establish spousal status for the purpose of this benefit.

3. Lender Processing. Lenders should process loan applications involving same-sex marriage in the same manner as loan applications based on opposite-sex marriage, without any additional scrutiny or development.

4. Questions. Direct any questions on this Circular to Ms. Erica Lewis at lgylegal.vbavaco@va.gov. You can also find additional information about marriage and VA benefits at <http://www.va.gov/opa/marriage/>.

5. Rescission:

a. Circular 26-15-10 and Circular 26-13-18 are rescinded immediately.

b. This Circular is rescinded January 1, 2017.

Circular 26-15-29

November 05, 2015

By Direction of the Under Secretary for Benefits

Michael J. Frueh
Director, Loan Guaranty Service

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