

Policy Reminder for Lender's Payment or Credit of Veterans Costs in VA Home Loans

1. Purpose. The purpose of this Circular is to clarify policy guidance to lenders regarding the use of credits or interest rates to pay borrower costs in a Department of Veterans Affairs (VA) guaranteed home loan transaction.

2. Background. VA prescribes the charges and fees a Veteran may pay prior to obtaining a VA-guaranteed loan. Fees or charges not expressly allowed by VA are prohibited. VA has learned Veterans are being charged interest rate premiums in exchange for lenders temporarily subsidizing monthly payments. More precisely an interest rate premium is imposed as a charge for a cash advance on a loan principal. While VA expressly authorizes lenders to charge Veterans for allowable costs and such a charge may occur through an interest rate adjustment, VA does not allow charges for unallowable costs, like cash advances on principal. A charge made to a Veteran in exchange for paying, crediting, funding, advancing, or otherwise establishing methods to advance funds to a Veteran on or after the VA loan closing (other than for advancing allowable charges) is prohibited.

3. Action. Effective immediately, VA is reminding lenders of the following:

a. Pursuant to 38 C.F.R. 36.4313 section d (2) a lender may charge, and a Veteran may pay a flat charge not exceeding one percent of the loan amount. Provided as such the flat charge shall be in lieu of all other charges relating to costs of origination not expressly specified, and allowed in section 36.4313.

b. Examples of unallowable charges or fees, exceeding the one percent flat charge, that a lender cannot impose on a Veteran include, but are not limited to:

(1) Temporary buydown charges and fees – VA prohibits lenders from paying temporary buydown fees and charges; however, it is acceptable for a seller to pay these fees and charges.

(2) Accounts established to be used for a subsidy or to pay a Veteran's mortgage payment. VA has observed that some lenders are funding temporary buydown accounts and escrow accounts in order to subsidize payments through an above market interest rate, or a combination of discount points and above market interest rate. VA views this as a cash-advance on principal and is prohibited.

(3) Other examples as described in the Lenders Handbook, 26-7, Chapter 8, Topic 3.

4. Rescission: This Circular is rescinded January 1, 2020.

By Direction of the Under Secretary for Benefits

Jeffrey F. London
Director
Loan Guaranty Service

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