

Updated Guidance for Blue Water Navy Vietnam Veterans Act of 2019

1. Purpose. To provide implementing policy guidance concerning Section 6 of Public Law 116-23, *Blue Water Navy Vietnam Veterans Act of 2019* (the Act).

2. Background.

a. On June 25, 2019, the President signed into law the Act, [Public Law 116-23, 133 Stat 966](#). Section 6 of the Act authorized changes to VA statutes regarding the maximum amount of entitlement available to Veterans, the maximum guaranty of loans in excess of \$144,000, the VA loan (funding) fee table, and an additional waiver of the VA funding fee. The Act authorized VA to issue guidance to implement these amendments before prescribing new regulations. On August 9, 2019, VA published [VA Circular 26-19-23](#), *Blue Water Navy Vietnam Veterans Act of 2019*, which provided interim guidance concerning VA's implementation of the Act.

b. This Circular provides updated guidance to assist lenders in implementing Section 6 of the Act. As noted above, VA is issuing policy in advance of publishing regulatory amendments to implement the Act. Therefore, until VA publishes a final rule updating appropriate VA regulations, where regulatory provisions explicitly conflict with this Circular, lenders should follow the policies in this Circular. Lenders should continue to follow all other applicable VA statutes, regulations, and policies. This Circular does not address overlay requirements from other stakeholders, such as investors, lenders, and government-sponsored enterprises.

3. Effective and Applicability Dates. Provisions of section 6 of the Act and policies announced in this Circular, will apply to all loans closed on or after January 1, 2020, regardless of when the loan is disbursed or when the Loan Guaranty Certificate (LGC) is issued.

4. Adjustment of Maximum Entitlement Amounts. The Act amends 38 U.S.C. § 3703(a)(1) by adjusting the maximum amount of guaranty entitlement available to Veterans for loans above \$144,000 made to purchase, refinance (cash-out refi), or construct a home as follows:

a. Full entitlement. For Veterans with full entitlement, the maximum amount of guaranty entitlement available to the Veteran, for a loan above \$144,000 shall be 25 percent of the loan amount.

b. Partial entitlement. For Veterans¹ who have previously used entitlement and such entitlement has not been restored, the maximum amount of guaranty entitlement available to the Veteran, for a loan above \$144,000 shall be 25 percent of the Freddie Mac conforming loan limit (CLL)², reduced by the amount of entitlement previously used (not restored) by the Veteran.

¹ A "covered veteran" as defined in 38 U.S.C. § 3703(a)(1) is a veteran who has previously used entitlement under this chapter and for whom the full amount of entitlement so used has not been restored as a result of the exclusion in section 3702(b) of this title.

² The "Freddie Mac conforming loan limit (CLL)" means the limit determined by the Federal Housing Finance Agency (FHFA) and published at <https://www.fhfa.gov/DataTools/Downloads/Pages/Conforming-Loan-Limits.aspx>.

5. Adjustment of Maximum Guaranty Amounts. The Act also amends 38 U.S.C. § 3703(a)(1) by adjusting the maximum amount of guaranty for loans above \$144,000 made to purchase, refinance (cash-out refi), or construct a home as outlined below. Please refer to Exhibit A for guaranty calculation examples.

a. Full entitlement. For loans above \$144,000, the maximum amount of guaranty may not exceed 25 percent of the loan amount.

b. Partial entitlement. For loans above \$144,000, the maximum amount of guaranty may not exceed the lesser of 25 percent of the loan amount OR 25 percent of the Freddie Mac CLL.

c. Married Veterans. When a Veteran and the Veteran's spouse, who is also a Veteran, use dual entitlement to guaranty a loan above \$144,000, the maximum amount of guaranty shall be 25 percent of the loan amount so long as one of the Veterans has full entitlement. VA will charge entitlement for married Veterans according to their preference. If both Veterans have partial entitlement, the maximum amount of guaranty may not exceed the lesser of 25 percent of the loan amount OR 25 percent of the Freddie Mac CLL.

d. Joint Loans. When more than one Veteran (Vet-Vet) seeks to use their entitlement on a loan above \$144,000, if at least one Veteran³ has partial entitlement, the maximum amount of guaranty may not exceed the lesser of 25 percent of the loan amount OR 25 percent of the Freddie Mac CLL. VA will charge entitlement to each Veteran equally. However, unequal charge of entitlement may be made with a signed written agreement from the Veterans if provided to VA prior to the issuance of the VA guaranty. If all Veterans seeking to use their entitlement on a loan above \$144,000 have full entitlement, then the maximum amount of guaranty shall be 25 percent of the loan amount. All other existing VA policies regarding joint loans, such as Veteran/Non-Veteran joint loans, remain the same. See [VA Pamphlet M26-7, Lenders Handbook](#), Chapter 7, Section 1, *Joint Loans*.

6. Loan Fees.

a. Adjustment of Loan (Funding) Fees. The Act amends 38 U.S.C. § 3729(b)(2) by changing the loan fee rates for purchase, construction, and cash-out refinance loans closing on or after January 1, 2020 and before January 1, 2022. Lenders must use the appropriate percentage from the amended funding fee table to calculate the funding fee for purchase, construction, and cash-out refinancing loans (see exhibit B). The funding fee rate for Interest Rate Reduction Refinancing Loans (IRRRLs) and Assumptions will not change.

b. Waiver of Fees for Purple Heart Recipients. The Act amends [38 U.S.C. § 3729\(c\)\(1\)](#) by adding a waiver of the VA funding fee for members of the Armed Forces who are serving on active duty and provide, on or before the date of loan closing, evidence of having been awarded the Purple Heart.

³ A "covered veteran" as defined in 38 U.S.C. § 3703(a)(1) is a veteran who has previously used entitlement under this chapter and for whom the full amount of entitlement so used has not been restored as a result of the exclusion in section 3702(b) of this title.

(1) Eligibility. Members of the Armed Forces serving on active duty who are in receipt of the Purple Heart award are eligible for the VA funding fee waiver, *even if the Purple Heart was awarded during a prior period of military service*. For example, the Veteran was awarded the Purple Heart in May 2018 and was honorably discharged from the military in July 2018. The Veteran later returned to active duty military service in October 2019 to present. The Veteran (now active duty servicemember) is eligible for the Purple Heart waiver (exemption) of the VA funding fee unless discharged or released from active duty on or before the date of loan closing.

(2) Evidence. VA will accept the following as sufficient evidence to demonstrate eligibility for the Purple Heart funding fee waiver: Purple Heart Certificate, a DD214 clearly showing the Purple Heart award, or military orders. Evidence of the Purple Heart award must be received by VA or the lender on or before the date of loan closing. Please do not send original documents to VA. If a lender receives evidence on or before the date of loan closing, but is unable to verify waiver eligibility with VA prior to loan closing, the lender must follow current policies related to uncertain exemption status. See [VA Pamphlet M26-7, Lenders Handbook](#), Chapter 8, Section 8, *The VA Funding Fee*. In such cases, VA will issue a refund to the Veteran if eligibility for the Purple Heart waiver of the funding fee is established. However, if evidence of the Purple Heart award is received *after* the date of loan closing, the active duty servicemember will not be entitled to a refund of the funding fee paid to VA as this is not authorized under [38 U.S.C. § 3729\(c\)\(1\)](#).

(3) Certificate of Eligibility (COE). The following conditions on the COE will denote eligibility for the funding fee waiver: *Active Duty Servicemember, Purple Heart Recipient, and Funding Fee*. Note: All three conditions must be present to establish the waiver.

(a) A COE that indicates a Purple Heart funding fee waiver expires upon discharge of the active duty servicemember. If the active duty servicemember is discharged or scheduled to be discharged on or prior to loan closing, a new COE is required.

(b) If the COE does not include the referenced COE conditions and the active duty servicemember is eligible for the Purple Heart funding fee waiver, evidence of the Purple Heart award must be uploaded into the COE record in the VA portal for review on or before the date of loan closing.

7. Rescission: This Circular is rescinded October 1, 2021.

By Direction of the Under Secretary for Benefits

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