Loan Guaranty Conference 2023

Assumptions

Terry Rouch, Assistant Director, Loan Policy & Valuation

Heather Sborz, Chief, Loan Policy

Jennifer Tillery, Policy Analyst, Loan Policy

For VA Internal Use Only

LOAN GUARANTY SERVICE

VA | U.S. Department of Veterans Affairs

Introduction

Terry Rouch – Assistant Director, Loan Policy & Valuation

Heather Sborz – Chief, Loan Policy

Jennifer Tillery – Program Analyst, Loan Policy

LOAN GUARANTY SERVICE

Objectives

- What is an Assumption?
- Processing Assumptions & Assumption Basics
- Substitution of Entitlement
- Appeals
- Questions

What is an Assumption?

For VA Internal Use Only

Assumptions

For VA-guaranteed loan committed on or after March 1, 1988:

An assumption is an approved transfer of ownership with a release of liability (ROL).

- Assumer agrees to become liable for the outstanding obligation.
- Assumer must meet VA's credit underwriting standards.
- Assumption funding fee applies (unless the assumer is exempt).
- Original Veteran's entitlement remains tied to the property.

Substitution of Entitlement (SOE). All of the ROL requirements PLUS:

- Assumer must be an eligible Veteran.
- Assumer must have enough entitlement.
- Assumer must meet occupancy requirements.
- Assumer's entitlement will be substituted for the original Veteran's.

Note: Loans committed prior to March 1, 1988 are freely transferable. (Pre-88).

Assumption Reference Chart

	Assumption (ROL without SOE)	SOE	Pre-88
Liability	Liability is transferred to the assumer.	Liability is transferred to the assumer.	Liability remains with original Veteran unless approved by VA.
Entitlement	Original Veteran	Assuming Veteran	Original Veteran*
Certificate of Eligibility (COE) required for assumer	No	Yes	No*
Occupancy Required	No	Yes	No*
Funding Fee	Yes (Unless the Assumer is Exempt)	Yes (Unless the Assumer is Exempt)	No
Underwriting	Yes	Yes	No

*Unless an SOE was requested. (Rare)

For VA Internal Use Only

LOAN GUARANTY SERVICE

Spouse Releases

For transfer of ownership requests due to divorce/legal separation:

If the Veteran is awarded the property, the transfer does not require VA approval, assumption, or VA release letter. The Veteran or ex-spouse must provide the following to the servicer:

- Finalized divorce decree or legal separation agreement.
- Recorded copy of the legal document transferring ownership.

If the spouse (VA entitlement not used) is awarded the property:

- Considered an Unrestricted Transfer or Ownership (Chapter 5 Topic 6)
- Assumption may be required to release the Veteran of liability

Processing Assumptions

For VA Internal Use Only

Who approves Assumptions?

Holder/Servicer:

- If the current holder, or their authorized servicing agent, has automatic authority
- Decision within 45 calendar days receipt of a complete Assumption Application Package

Department of Veterans Affairs:

- If neither the current holder, nor their authorized servicing agent, have authority
  - The holder or the servicer must compile the assumption application package,
  - Submit the package to VA within 35 calendar days, and
  - Close the loan if approved by VA.
- Assumption Appeals
  - If the holder/servicer with auto-authority denies the assumption, it may be appealed to VA within 30 calendar days.
  - Submit the Assumption Application Package to VA within 7 calendar days.

It is not an option not to offer loan assumptions.

For VA Internal Use Only

Reporting an Assumption

Prior Approval Assumptions (Appeals should be submitted in the same manner):

- Upload an Assumption Application Package
  - Submitted through VALERI: upload as a Release of Liability
  - Cover letter should clearly identify the holder and servicer and provide a point of contact

Closed Assumptions:

- Remit the funding fee to VA Funding Fee Payment System (FFPS) within 15 calendar days
  - If exempt, enter assumption record in FFPS indicating the assumer is exempt
- VALERI reporting events:
  - Release of Liability
  - Transfer of Ownership
- Assumption Application Package submission within 45 calendar days
  - Submitted through VALERI: upload as a Release of Liability

Substitution of Entitlement (SOE)

For VA Internal Use Only

LOAN GUARANTY SERVICE

SOE

Requirements:

- Conducted and reported simultaneously with an ROL
- Cannot complete a standalone SOE
- Assumer must be an eligible Veteran
- Assumer must meet occupancy requirements
- Assumer must have enough entitlement

Additional Documentation:

- COE
  - Request early in the process
  - Seller & assumer
- VA Form 26-8106

What is “enough” entitlement?

- Assumer must have available entitlement sufficient to cover the existing entitlement used by the seller
- Seller COE will reflect the current entitlement usage

COE Examples

Clear, unencumbered entitlement:

Prior Loans charged to entitlement					
VA Loan Number	State	Loan Amount	Date of Loan	Entitlement Charged	Status

THIS VETERAN'S BASIC ENTITLEMENT IS $36,000*
TOTAL ENTITLEMENT CHARGED TO PREVIOUS VA LOANS IS $0*

Calculating Remaining Entitlement

Prior Loans charged to entitlement					
VA Loan Number	State	Loan Amount	Date of Loan	Entitlement Charged	Status
		$145,040	**05/03/2021**	**$36,260**	**Active**

THIS VETERAN'S BASIC ENTITLEMENT IS $0*
TOTAL ENTITLEMENT CHARGED TO PREVIOUS VA LOANS IS $36,260*

Current entitlement used by assuming Veteran: $36,250

1. Calculate maximum entitlement based on CLL: $726,200 * 25% = $181,550

County Loan Limit: https://www.va.gov/housing-assistance/home-loans/loan-limits/

- Single-unit Limit, county where the subject-property is located

2. Reduce maximum entitlement by amount in use: $181,550 - $36,250= $145,300

LOAN GUARANTY SERVICE

SOE Example

Does the assumer have sufficient remaining bonus entitlement to complete a SOE?

Assuming Veteran's COE – they have an existing VA-guaranteed loan using $36,250 of their entitlement.

Prior Loans charged to entitlement					
VA Loan Number	State	Loan Amount	Date of Loan	Entitlement Charged	Status
		$145,040	**05/03/2021**	**$36,260**	**Active**

THIS VETERAN'S BASIC ENTITLEMENT IS $0*
TOTAL ENTITLEMENT CHARGED TO PREVIOUS VA LOANS IS $36,260*

Selling Veteran's COE

Prior Loans charged to entitlement					
VA Loan Number	State	Loan Amount	Date of Loan	Entitlement Charged	Status
		$232,063	**06/27/2019**	**$58,016**	**Active**

THIS VETERAN'S BASIC ENTITLEMENT IS $0*
TOTAL ENTITLEMENT CHARGED TO PREVIOUS VA LOANS IS $58,015*

For VA Internal Use Only

LOAN GUARANTY SERVICE

Assumption Denials & Appeals

For VA Internal Use Only

LOAN GUARANTY SERVICE

Denials

Notification Requirements:

- Denial letter must advise of VA appeal of the holder/servicer decision
  - Provide specific point of contact for VA to request the assumption package
- Reason(s) for denial
- If for credit, the assumer must be informed in accordance with Fair Credit Reporting Act

Appeals:

- Appeal to VA must be requested within 30 calendar days of holder/servicer decision.
- VA will request the assumption package upon receipt of appeal request
  - Assumption package should be submitted to VALERI as a Release of Liability document within 7 calendar days
- VA will make a decision within 10 business days
- Note: VA will only apply VA-specific requirements
  - EX: Assets are only required to the extent they are necessary to close the loan; no loan-to-value requirements.

Assumption Questions For Discussion

For VA Internal Use Only

LOAN GUARANTY SERVICE

Assumption Question 1

John and Mary Smith are ending their marriage. Both of them are Veterans and John's entitlement was used to obtain a VA-guaranteed loan in Arizona. Mary's entitlement was used to obtain a VA-guaranteed loan in Georgia. John will be retaining the home in Arizona and Mary will be retaining the home in Georgia. What option(s) do they choose?

- They contact VA for an assumption package.
- They request a spousal release of liability/non-Veteran Spouse release from VA.
- They contact their servicer(s) for a spousal release of liability.
- They contact their servicer(s) for an assumption.
- They contact their servicer(s) for an assumption and substitution of entitlement.

Assumption Question 2

John and Mary Smith are still ending their marriage; however, they have changed their minds on who is obtaining the properties they own. John will be retaining the home in Georgia and Mary will be retaining the home in Arizona. What option(s) do they choose?

- They contact VA for an assumption package.
- They request a spousal release of liability/non-Veteran Spouse release from VA.
- They contact their servicer(s) for a spousal release of liability.
- They contact their servicer(s) for an assumption.
- They contact their servicer(s) for an assumption and substitution of entitlement.

Assumption Question 3

Robert, a Veteran, obtained a VA-guaranteed loan in Florida in 2019. He is selling the home to Lillian who is a Veteran on assumption and Lillian has agreed to substitute her entitlement for Robert's entitlement and she is not exempt from the VA funding fee.

- The sale price is $750,000
- The loan balance is $500,000
- $125,000 entitlement was encumbered to guaranty the loan
- Jane has never used her entitlement before
- Jane intends to use the home as an investment property, and visit a few times a year

What option do they choose?

- They contact VA for an assumption.
- They contact the servicer for an assumption.
- They contact VA for a substitution of entitlement.
- They contact the servicer for an assumption with a SOE.

For VA Internal Use Only

Assumption Question 4

Jimmy obtained a VA-guaranteed loan in Minnesota. Jimmy recently passed away and the spouse was awarded the home. What are the spouse's option(s)?

- Do nothing.
- The spouse contacts the servicer for a transfer of ownership.
- The spouse contacts the servicer for an assumption.

Additional Resources

VA Lenders Handbook, 26-7, Chapter 5

https://benefits.va.gov/warms/pam26_7.asp

VA Servicers Handbook, 26-4

https://www.benefits.va.gov/WARMS/M26_4.asp

VA Circulars

https://www.benefits.va.gov/HOMELOANS/resources_circulars.asp

LOAN GUARANTY SERVICE

Questions

For VA Internal Use Only

LOAN GUARANTY SERVICE