

## Department of Veterans Affairs

## § 36.4209

(d) Comply with the specifications in effect at the time the loan is made that are prescribed by the Secretary.

(Authority: 38 U.S.C. 3712(h)(1))

[36 FR 1253, Jan. 27, 1971, as amended at 40 FR 13213, Mar. 25, 1975; 44 FR 22725, Apr. 17, 1979; 56 FR 9855, Mar. 8, 1991]

### § 36.4208 Manufactured home location standards.

(a) Any rental site on which a manufactured home to be purchased with a guaranteed loan will be placed must qualify as an acceptable rental site as follows:

(1) Be located within a manufactured home park or subdivision which is acceptable to the Department of Veterans Affairs; or

(2) Be a site which is not within a manufactured home park or subdivision provided that (i) the site is determined by the Department of Veterans Affairs to be an acceptable rental site, or (ii) in the absence of a determination by the Department of Veterans Affairs in respect to such site the manufactured home purchaser and the dealer certify to the Secretary as follows:

(A) Placement of the manufactured home on the site or lot is not a violation of zoning laws or other local requirements applicable to manufactured homes;

(B) The site or lot is served by water and sanitary facilities which are approved by the local public authority and which are acceptable to the Department of Veterans Affairs;

(C) The site or lot is served by an all-weather street or road;

(D) The site or lot is not known to be subject to conditions that may be hazardous to the health or safety of the manufactured home occupants or that may endanger the manufactured home; and

(E) The site is free from, and the location of the manufactured home thereon will not substantially contribute to, adverse scenic or environmental conditions.

(b) No manufactured home purchased with a guaranteed loan may be placed on a lot owned by an eligible veteran or on a lot to be purchased or improved with the proceeds of a guaranteed manufactured home loan unless the lot

owned or to be so purchased or improved is determined by the Department of Veterans Affairs to be an acceptable manufactured home site.

(c) A manufactured home park or subdivision which is not approved by the Federal Housing Administration will be acceptable to the Department of Veterans Affairs for the purpose of 38 U.S.C. 3712 if the Secretary determines that the park or subdivision, whether existing or proposed, (1) is designed to encourage the maintenance and development of manufactured home sites which will be free from, and not substantially contribute to, adverse scenic and environmental conditions, and (2) complies otherwise with the applicable standards for planning, construction, and general acceptability prescribed by the Secretary.

[36 FR 1253, Jan. 27, 1971, as amended at 55 FR 37472, Sept. 12, 1990; 56 FR 9855, Mar. 8, 1991]

### § 36.4209 Reporting requirements.

(a) Each loan proposed for guaranty under 38 U.S.C. 3712 shall, unless otherwise provided in the § 36.4200 series, be submitted to the Secretary for approval prior to closing. The Secretary upon determining any such proposed loan to be eligible for guaranty will issue a certificate of commitment.

(b) Except as provided in paragraph (c) of this section, a certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 60 days thereafter of a supplemental report showing such fact and:

(1) That the loan conforms to the terms of the certificate of commitment;

(2) The identity of all property purchased therewith, including the itemized list required by § 36.4204(f);

(3) That all property purchased with the proceeds of the loan has been encumbered as required by the § 36.4200 series;

(4) In respect to any property purchased with the loan proceeds as to which the Secretary issued a certificate of reasonable value which was conditioned upon completion of any

construction, repairs, alterations or improvements not inspected and approved subsequent to completion by a compliance inspector designated by the Secretary that such construction, repairs, alterations or improvements have been completed according to the plans and specifications upon which such reasonable value was based; and

(5) That the loan conforms otherwise to the applicable provisions of 38 U.S.C. chapter 37 and §36.4200 series.

(c) A deviation of more than five (5) percent between the estimates upon which the certificate of commitment was issued and the report of final payment of the proceeds of the loan, or a change in the identity of the property acquired by the veteran with the loan proceeds will invalidate the certificate of commitment, unless such deviation or change is approved by the Secretary.

(d) Upon the failure of the lender to report in accordance with paragraph (b) of this section, the certificate of commitment shall have no further effect; *Provided, nevertheless*, That if the loan otherwise meets the requirements of this section, said certificate of commitment may be given effect by the Secretary, notwithstanding the report is received after the date otherwise required.

(e) Subject to compliance with the regulations concerning guaranty of manufactured home loans to veterans, the Certificate of Guaranty will be issuable within the available entitlement of the veteran on the basis of the loan reported, except for refinancing loans for interest rate reductions. No certificate of commitment shall be issued, and no loan shall be guaranteed, unless the lender, the veteran, and the loan are shown to be eligible; nor shall guaranty be issued on any manufactured home loan unless the Secretary determines that there has been compliance by the veteran with the certification requirements of 38 U.S.C. 3712(e)(5).

(Authority: 38 U.S.C. 3712(a)(4), (c)(2), (e)(5))

(f) Any amount of the loan that is disbursed for an ineligible purpose shall be excluded in computing the amount of guaranty.

(g) Approval by the Secretary pursuant to 38 U.S.C. 3712(c)(1) is required

before a lender may close manufactured home loans or manufactured home lot loans on the automatic basis. Evidence of guaranty will be issuable if the loan closed on the automatic basis is reported to the Secretary within 60 days of full disbursement, and upon certification of the lender that no default exists thereunder which has continued for more than 30 days and that the loan complies with paragraphs (b)(2), (3), (4), and (5), (e), and (f) of this section. Upon the failure of the lender to report in accordance with this paragraph the loan will not be eligible for guaranty unless the lender submits with the report a certification that the loan is not in default and an explanation as to why the loan was not timely reported.

(Authority: 38 U.S.C. 3712 (c)(1) and (g))

(h) With respect to any loan for which a commitment was made on or after March 1, 1988, the Secretary must be notified whenever the holder receives knowledge of disposition of a manufactured home and/or lot securing a Department of Veterans Affairs guaranteed loan.

(1) If the seller applies for prior approval of the assumption of the loan, then:

(i) A holder (or its authorized servicing agent) who is an automatic lender must examine the creditworthiness of the purchaser and determine compliance with the provisions of 38 U.S.C. 3714. The creditworthiness review must be performed by the party that has automatic authority. If both the holder and its servicing agent are automatic lenders, then they must decide between themselves which one will make the determination of creditworthiness, whether the loan is current and whether there is a contractual obligation to assume the loan, as required by 38 U.S.C. 3714. If the actual loan holder does not have automatic authority and its servicing agent is an automatic lender, then the servicing agent must make the determinations required by 38 U.S.C. 3714 on behalf of the holder. The actual holder will remain ultimately responsible for any failure of its servicing agent to comply with the applicable law and Department of Veterans Affairs regulations.

(A) If the assumption is approved and the transfer of the security is completed, then the notice required by this paragraph shall consist of the credit package (unless previously provided in accordance with paragraph (h)(1)(i)(B) of this section) and a copy of the executed deed, bill of sale, transfer of equity agreement, and/or assumption agreement as required by the VA office of jurisdiction. The notice shall be submitted to the Department of Veterans Affairs with the Department of Veterans Affairs receipt for the funding fee provided for in §§36.4232(e)(3) or 36.4254(d)(3) of this part.

(B) If the application for assumption is disapproved, the holder shall notify the seller and the purchaser that the decision may be appealed to the Department of Veterans Affairs office of jurisdiction within 30 days. The holder shall make available to that Department of Veterans Affairs office all items used by the holder in making the holder's decision in case the decision is appealed to the Department of Veterans Affairs. If the application remains disapproved after 60 days (to allow time for appeal to and review by the Department of Veterans Affairs) then the holder must refund \$50 of any fee previously collected under the provisions of §36.4275(a)(3)(iii) of this part. If the application is subsequently approved and the sale is completed, then the holder (or its authorized servicing agent) shall provide the notice described in paragraph (h)(1)(i)(A) of this section.

(C) In performing the requirements of paragraphs (h)(1)(i)(A) or (h)(1)(i)(B) of this section the holder must complete its examination of the creditworthiness of the prospective purchaser and advise the seller of its decision no later than 45 days after the date of receipt by the holder of a complete application package for the approval of the assumption. The 45-day period may be extended by an interval not to exceed the time caused by delays in processing of the application which are documented as beyond the control of the holder, such as employers or depositories not responding to requests for verifications, which were timely forwarded, or followups on those requests.

(ii) If neither the holder nor its authorized servicing agent is an automatic lender, the notice to the Department of Veterans Affairs shall include:

(A) Advice regarding whether the loan is current or in default;

(B) A copy of the purchase contract; and

(C) A complete credit package developed by the holder which the Secretary may use for determining the creditworthiness of the purchaser.

(D) The notice and documents required by this section must be submitted to the Department of Veterans Affairs office of jurisdiction no later than 35 days after the date of receipt by the holder of a complete application package for the approval of the assumption, subject to the same extensions as provided in paragraph (h)(1)(i) of this section. If the assumption is not automatically approved by the holder or its authorized agent pursuant to the automatic authority provisions, \$50 of any fee collected in accordance with §36.4275(a)(3)(iii) of this part must be refunded. If the Department of Veterans Affairs does not approve the assumption, the holder will be notified and an additional \$50 of any fee collected under §36.4275(a)(3)(iii) of this part must be refunded following expiration of the 30-day appeal period set out in paragraph (h)(1)(i)(B) of this section. If such an appeal is made to the Department of Veterans Affairs, then the review will be conducted at the Department of Veterans Affairs office of jurisdiction by an individual who was not involved in the original disapproval decision. If the application for assumption is approved and the transfer of the security is completed, then the holder (or its authorized servicing agent) shall provide the notice required in paragraph (h)(1)(i)(A) of this section.

(2) If the seller fails to notify the holder before disposing of property securing the loan, the holder shall notify the Secretary within 60 days after learning of the transfer. Such notice shall advise whether or not the holder intends to exercise its option to immediately accelerate the loan or whether an opportunity will be extended to the transferor and transferee to apply for

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retroactive approval of the assumption under the terms of this paragraph

(Authority: 38 U.S.C. 3714)

(Approved by the Office of Management and Budget under control number 2900-0516)

[36 FR 1253, Jan. 27, 1971, as amended at 44 FR 22725, Apr. 17, 1979; 46 FR 43670, Aug. 31, 1981; 55 FR 37472, Sept. 12, 1990; 58 FR 37859, July 14, 1993]

#### § 36.4210 Joint loans.

(a) Except as provided in paragraph (b) of this section, the prior approval of the Secretary is required in respect to any manufactured home loan to be made to two or more borrowers who become jointly and severally liable, or jointly liable therefor, and who will acquire an undivided interest in the property to be purchased or who will otherwise share in the proceeds of the loan, or in respect to any loan to be made to an eligible veteran whose interest in the property owned, or to be acquired with the loan proceeds, is an undivided interest only. The amount of the guaranty shall be computed in such cases only on that portion of the loan allocable to the eligible veteran which, taking into consideration all relevant factors, represents the proper contribution of the veteran to the transaction. Such loans shall be secured to the extent required by 38 U.S.C. chapter 37 and the regulations concerning guaranty of manufactured home loans to veterans.

(b) Notwithstanding the provisions of paragraph (a) of this section, the joinder of the spouse of a veteran-borrower in the ownership of property shall not require prior approval or preclude the issuance of a guaranty based upon the entire amount of the loan. If both spouses be eligible veterans, either or both, within permissible maxima, may utilize available guaranty entitlement.

(c) For the purpose of determining the rights and the liabilities of the Secretary with respect to a loan subject to paragraph (a) of this section, credits legally applicable to the entire loan shall be applied as follows:

(1) Prepayments made expressly for credit to that portion of the indebtedness allocable to the veteran shall be applied to such portion of the indebtedness. All other payments shall be ap-

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plied ratably to those portions of the loan allocable respectively to the veteran and to the other debtors.

(2) Proceeds of the sale or other liquidation of the security shall be applied ratably to the respective portions of the loan, such portion of the proceeds as represents the interest of the veteran being applied to that portion of the loan allocable to such veteran.

(Authority: 38 U.S.C. 3703(c)(1))

[44 FR 22725, Apr. 17, 1979, as amended at 55 FR 37473, Sept. 12, 1990]

#### § 36.4211 Amortization—prepayment.

(a) To be eligible for guaranty under 38 U.S.C. 3712 a loan shall be amortized fully within the term of the loan in accordance with any generally recognized plan of amortization requiring approximately equal monthly payments. The loan shall not be payable on demand or at sight or presentation, or at a time not specified or computable from the language in the evidence of indebtedness, or on a renewal basis at the option of the holder. The first payment may be deferred not longer than 2 months from the date the loan is closed.

(b) No guaranteed loan security instrument shall contain any provision giving the holder a right to declare the loan due or otherwise to declare a default if the holder “shall feel insecure” or upon the occurrence of any similar condition at the holder’s option, without regard to any act or omission by the debtor.

(c) The debtor shall have the right, without penalty or fee, to prepay all or not less than one installment of the indebtedness at any time. Credit for any partial prepayment made on other than an installment due date may be postponed to the next installment due date. The holder and the debtor may agree at any time that any prepayment not previously applied in satisfaction of matured installments shall be reapplied for the purpose of curing or preventing any subsequent default. Any prepayment in full of the indebtedness (unpaid principal balance plus earned interest) shall be credited on the date received. In determining the amount required to prepay the indebtedness in