

## Department of Veterans Affairs

## § 36.4227

such charges after notification by VA; or

(vi) There are other instances of lender actions which are prejudicial to the interests of veterans, such as deliberate delays in scheduling loan closings.

(3) Withdrawal for a period from one year to three years:

(i) The lender fails to properly disburse loans (e.g., loan disbursement checks returned due to insufficient funds); or

(ii) There is involvement by the lender in the improper use of a veteran's entitlement (e.g., knowingly permitting the veteran to violate occupancy requirements, lender involvement in sale of veteran's entitlement).

(4) A continuation of actions that have led to previous withdrawal of automatic authority justifies withdrawal of automatic authority for the next longer period of time.

(5) Withdrawal of automatic processing authority does not prevent a lender from processing VA guaranteed manufactured home loans on the prior approval basis.

(6) Action by VA to remove a lender's automatic authority does not prevent VA from also taking debarment or suspension action based on the same conduct by the lender.

(7) VA field facilities are authorized to withdraw automatic privileges for 60 days, based on any of the violations set forth in paragraphs (b)(1) through (b)(3) of this section, for nonsupervised lenders without operations in other stations' jurisdictions. All determinations regarding withdrawal of automatic authority for longer periods of time or multi-jurisdictional lenders must be made in Central Office.

(c) VA will provide 30 days notice of withdrawal of automatic authority in order to enable the lender to either close or obtain prior approval for a loan on which processing has begun. There is no right to a formal hearing to contest the withdrawal of automatic processing privileges. However, if within 15 days after receiving notice the lender requests an opportunity to contest the withdrawal, the lender may submit in person, in writing, or through a representative, information

and argument in opposition to the withdrawal.

(d) If the lender's submission in opposition raises a dispute over facts material to the withdrawal of automatic authority, the lender will be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witnesses VA presents. The Under Secretary for Benefits will appoint a hearing officer or panel to conduct the hearing.

(e) A transcribed record of the proceedings shall be made available at cost to the lender, upon request, unless the requirement for a transcript is waived by mutual agreement.

(f) In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the Under Secretary for Benefits shall make a decision on the basis of all the information in the administrative record, including any submissions made by the lender.

(g) In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact will be prepared by the hearing officer or panel. The Under Secretary for Benefits shall base the decision on the facts as found, together with any information and argument submitted by the lender and any other information in the administrative record.

(Authority: 38 U.S.C. 501, 1803(e)(1), and 1812(g)).

[56 FR 40560, Aug. 15, 1991, as amended at 61 FR 28058, June 4, 1996; 72 FR 30242, May 31, 2007]

### § 36.4227 Advertising and Solicitation Requirements.

Any advertisement or solicitation in any form (e.g., written, electronic, oral) from a private lender concerning manufactured housing loans to be guaranteed or insured by the Secretary:

(a) Must not include information falsely stating or implying that it was issued by or at the direction of VA or any other department or agency of the United States, and

(b) Must not include information falsely stating or implying that the

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lender has an exclusive right to make loans guaranteed or insured by VA.

(Authority: 38 U.S.C. 3703, 3704)

[67 FR 9402, Mar. 1, 2002]

FINANCING MANUFACTURED HOME UNITS

**§ 36.4231 Warranty requirements.**

(a) When a new manufactured home purchased with financing guaranteed under 38 U.S.C. 3712 is delivered to the veteran-borrower he or she will be supplied a written warranty by the manufacturer in the form and content prescribed by the Secretary. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument, and the warranty instrument will so provide. No evidence of guaranty shall be issued by the Secretary unless a copy of such warranty duly received by the purchaser is submitted with the loan papers.

(b) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to 42 U.S.C. 5415 shall be acceptable as security for a VA guaranteed loan.

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

(c) When a used manufactured home is purchased from a manufactured home dealer with financing guaranteed under 38 U.S.C. 3712 the veteran-borrower must be supplied with a written warranty by the manufactured home dealer in the form and content prescribed by the Secretary. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument, and the warranty instrument will so provide. No evidence of guaranty shall be issued by the Secretary unless a copy of such warranty duly received by the purchaser is submitted with the loan papers.

[48 FR 40229, Sept. 6, 1983, as amended at 60 FR 38259, July 26, 1995]

**38 CFR Ch. I (7-1-14 Edition)**

**§ 36.4232 Allowable fees and charges; manufactured home unit.**

(a) Incident to the origination of a guaranteed loan for the purchase or refinancing of a manufactured home unit only, no charge shall be made against, or paid by, the veteran-borrower without the express prior approval of the Secretary except as provided in paragraph (e) of this section and as follows:

(1) Actual fees or charges for required recordation of documents;

(2) The costs of independent fee inspections for itemized items included in the manufactured home loan, as required by § 36.4204(f);

(3) The amount of any documentary stamp taxes levied on the transaction;

(4) The amount of State and local taxes levied on the transaction;

(5) The premium for customary physical damage insurance and vendor's single interest coverage on the manufactured home for an initial policy term of not to exceed one (1) year;

(6) The premium for insurance against loss for items missing at time of repossession and for repossession expenses, unless State law prohibits charging borrowers for this coverage, in which case the lender is required to pay for the coverage without reimbursement from the veteran;

(7) For the purposes of obtaining a refinancing loan for interest rate reduction or a refinancing loan to simultaneously refinance a unit and acquire a lot, the cost of a credit report and an appraisal; and

(Authority: 38 U.S.C. 3712 (a)(1)(b), (a)(4)(A) and (g)).

(8) The actual amount charged for flood zone determinations, including a charge for a life-of-the-loan flood zone determination service purchased at the time of loan origination, if made by a third party who guarantees the accuracy of the determination. A fee may not be charged for a flood zone determination made by a Department of Veterans Affairs appraiser or for the lender's own determination.

(Authority: 38 U.S.C. 3712; 42 U.S.C. 4001 note, 4012a)

(b) Any charge against the borrower properly made under paragraph (a) of