

TRAINING MODULE 11

Study Plan

LOAN GUARANTY

Objective:

To learn how an eligible veteran or other eligible person may obtain a loan to buy, build, or improve a home under VA's Loan Guaranty program.

References:

Title 38, U.S. Code, Chapter 37.

38 Code of Federal Regulations, Part 36.

Guaranteed Loan Processing Manual M26-1

VA Pamphlets: Federal Benefits for Veterans and Dependents

26-4, *VA-Guaranteed Home Loans for Veterans*

26-5, *Pointers for the Veteran-Homeowner*

26-6, *To the Home-Buying Veteran: A Guide for Veterans Planning to Buy or Build Homes with a VA Loan*

26-69-1, *Questions and Answers on Specially Adapted Housing and Special Housing Adaptations for Veterans*

26-71-1, *Questions and Answers on Manufactured Home Loans for Veterans*

26-91-1, *VA Home Loans: A Quick Guide for Homebuyers & Real Estate Professionals*

26-93-1, *VA Direct Home Loans for Native American Veterans Living on Trust Lands*

80-04-1, *Federal Benefits for Veterans and Dependents.*

Instructions:

Study the assigned reference materials to learn how to assist veterans or other eligible persons file for benefits under the Loan Guaranty program.

Summary:

The Department of Veterans Affairs (VA) will guarantee loans to be used for the following purposes:

- To buy a home (including a townhouse or a condominium unit in a VA-approved project);
- To build a new home;
- To repair, alter, or improve an existing home
- To refinance an existing loan (including an existing VA loan to reduce the interest rate);
- To buy a manufactured (mobile) home and/or lot;
- To buy and improve a lot on which to place an already-owned and -occupied mobile home; or
- To refinance a mobile home loan in order to acquire a lot.

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IMPLEMENTATION OF LOAN GUARANTY PROVISIONS OF PUBLIC LAW 110-389

1. **PURPOSE:** On October 10, 2008, the President signed Public Law 110-389, the Veterans' Benefits Improvement Act of 2008. This circular addresses the changes to VA's Loan Guaranty Program that were included in that law.
2. **EXTENSION OF ADJUSTABLE RATE MORTGAGE AUTHORITY:** VA's authority to guarantee adjustable rate mortgages (ARMs) and hybrid adjustable rate mortgages (HARMs) was scheduled to expire on September 30, 2008. Section 505 of Public Law 110-389 extended this authority through September 30, 2012. All VA program requirements related to ARMs and HARMs remain in effect.
3. **ENHANCEMENT OF REGULAR REFINANCING LOANS:** Section 504 of Public Law 110-389 made changes to VA's regular ("cash-out") refinancing loans. Effective immediately, the maximum guaranty amount for regular refinancing loans is the same as the maximum guaranty amount for purchase loans. Regular refinancing loans are now available for up to 100 percent of the appraised value of a home, which is an increase from VA's previous threshold of 90 percent. All other VA program requirements for regular refinancing loans remain the same.
4. **GUARANTY AMOUNTS:** Section 501 of Public Law 110-389 provides a temporary increase in the maximum guaranty amount for loans closed January 1, 2009, through December 31, 2011. During this period, the "maximum guaranty amount" set forth in this circular should be substituted for the maximum guaranty amount specified at 38 U.S.C. 3703(a)(1)(C), 38 CFR §§ 36.4302(a)(4) and 36.4802(a)(4), and in the VA Lender's Handbook. Please note that, if a veteran has previously used entitlement that has not been restored, the guaranty amount for that veteran must be reduced accordingly.
 - a. **Loans for \$417,000 or Less Are Unaffected:** The guaranty amount for loans where the original principal loan amount is \$417,000 or less remain unchanged. On these loans, VA will continue to guarantee the amounts specified at 38 U.S.C. 3703(a)(1) and the VA Lender's Handbook.
 - b. **Loans for More Than \$417,000:** If the original principal loan amount is greater than \$417,000, VA will guarantee 25 percent of the original principal loan amount, up to the maximum guaranty amount. The maximum guaranty amount varies depending upon the location of the property.
 - (1) For all locations in the United States other than Alaska, Guam, Hawaii, and the U.S. Virgin Islands, the maximum guaranty amount is the greater of 25 percent of (a) \$417,000 or (b) 125 percent of the area median price for a single-family residence, but in no case will the guaranty exceed 175 percent of the Freddie Mac loan limit for a single family residence in the county in which the property securing the loan is located. This translates to a potential maximum loan amount of \$1,094,625.
 - (2) In Alaska, Guam, Hawaii, and the U.S. Virgin Islands, the maximum guaranty amount is the greater of 25 percent of (a) \$625,500 or (b) 125 percent of the area median price for a single-family residence, but in no case will the guaranty exceed 175 percent of the Freddie Mac loan limit for a single family residence in the county in which the property securing the loan is located. This translates to a potential maximum loan amount of \$1,641,937.50.
 - c. **Annual Adjustments:** The maximum guaranty amounts set forth above will be adjusted annually. The first adjustment will affect loans closed on or after January 1, 2010.
5. **CALCULATING THE MAXIMUM GUARANTY FOR LOANS OVER \$417,000:** The applicable maximum guaranty amount may be calculated using data available online from the Federal Housing Administration (FHA). To calculate the maximum guaranty amount for a particular property:
 - a. go to <http://www.fhaoutreach.com/>;
 - b. scroll to the bottom of the page;
 - c. select the state where the property is located;
 - d. type the name of the county where the property is located in the box labeled "County";
 - e. click "Submit"; and,

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f. multiply the resulting "Median Price" for the appropriate county by 1.25.

g. If the resulting figure is:

- (1) less than \$417,000, use \$417,000 to calculate the maximum guaranty amount;
- (2) greater than \$417,000, but less than \$1,094,625 (or \$1,641,937.50 in Alaska, Guam, Hawaii, and the U.S. Virgin Islands), use the result to calculate the maximum guaranty amount; or,
- (3) greater than \$1,094,625 (or \$1,641,937.50) use \$1,094,625 (or \$1,641,937.50) to calculate the maximum guaranty amount.

VA-guaranteed loans are not available to buy a farm (unless the farm includes a farm house which will be personally occupied by the veteran or eligible person as their home), or to buy a business. Financing for these may be obtained through the Farmers Home Administration and the Small Business Administration, respectively, both of which give preference to veterans.

Except as noted below, VA does not actually make the loan; rather, VA guarantees a percentage of the loan value, thereby reducing the risk to the lender. The actual amount of the guarantee will vary depending on the total amount of the loan, the value of the property involved, and whether the veteran or eligible person has previously used any of his or her loan guaranty entitlement. The amount of the loan may not exceed the reasonable value of the property; the maximum amount of the guarantee will be 25% of the Freddie Mac (Federal Home Loan Mortgage Corporation) conforming loan limit limitation for a single-family residence, as adjusted (for the year involved). If both spouses are veterans and each has loan guaranty entitlement available, their separate entitlements may be combined to obtain a greater guaranty amount.

VA will make direct loans under certain circumstances to eligible Native American veterans to buy, build, or improve a home on Native American trust (tribal) lands. The maximum loan in this case is \$80,000 or the actual cost of the home, whichever is less. VA may also make direct loans to eligible disabled veterans who qualify for the Special Adapted Housing grant, to help cover the difference between the amount of the grant and the cost of the housing unit. In this case, the maximum loan is \$48,000.

The veteran or other eligible person must meet all of the credit-worthiness and the other usual and customary requirements of the lending institution, as well as making the down payment (if any) and paying the normal and reasonable closing costs. There is also a funding fee, which may be either paid separately or included in the loan; this fee varies according to the amount of down payment made. If the veteran is in receipt of service-connected disability compensation or is entitled to compensation but for the receipt of military retired pay, the funding fee is waived. Interest rates are negotiable. The length of the mortgage and repayment plan depends on the specifics of the loan, including the amount and purpose and the particular lender. In general, the maximum length of the loan term is 30 years and 32 days; the repayment plan may be a fixed-payment, a graduated payment, a "buydown," or a growing equity mortgage plan. If the loan is to build a new home, VA will require the builder to offer a warranty against construction defects; however, VA has no enforcement authority in such cases except to suspend the builder from future participation in the Loan Guaranty program.

For qualifying service, veterans who served during any wartime period from World War II or later (except for the Persian Gulf Conflict) must have served at least 90 days of active duty and have been discharged under honorable conditions. Veterans whose service was entirely during peacetime periods July 26, 1947 to June 26, 1950; February 1, 1955 to August 4, 1964; or May 8, 1975 to September 7, 1980 (if enlisted) or to October 16, 1981 (if an officer) must have served at least 181 days of continuous active duty and have been discharged under honorable conditions.

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In both cases, if service was less than the minimum specified time but the veteran was discharged because of a service-connected disability, the veteran may still be eligible for benefits.

Veterans whose service began after September 7, 1980 (if enlisted) or after October 16, 1981 (if an officer) and ended before August 1, 1990 must have completed 24 months of continuous active duty or the full period for which called or ordered to active duty, and have been discharged under honorable conditions. Eligibility may still exist if the veteran served less than the specified length of time, but was discharged because of a service-connected disability; or served at least 20 months and was discharged for the convenience of the Government; or served at least 181 days and was discharged because of hardship or reduction in force; or has been determined to have a service-connected disability of compensable severity. Veterans who served during the Persian Gulf Conflict (beginning August 2, 1990), have the same 24-month length of service requirement; however, the exceptions only require 90 days of active duty rather than 181 days. Current active duty service members require 90 days of continuous active service for eligibility. Certain members of the Selected Reserve and National Guard who are not otherwise eligible for Loan Guaranty benefits, who have served at least 6 years in the Reserves or National Guard and who continue to serve in the Selected Reserve, or have been discharged under honorable conditions, or have been discharged because of a service-connected disability, or have been placed on the retired list, or have been transferred to an element of the Ready Reserves other than the Selected Reserve, are eligible for VA Loan Guaranty benefits. Previous eligibility delimiting dates for Selected Reserve and National Guard members have been repealed.

Other persons eligible for VA Loan Guaranty benefits include the un-remarried surviving spouse of a veteran who died on active duty or whose death is determined to be service-connected in nature; the spouse of any active duty service member who has been listed as missing in action or as a prisoner of war for more than 90 days; certain U.S. citizens who served in the armed forces of an Allied government during World War II; and persons who served as members of certain other organizations, services, programs, or schools. Veterans of World War I and members of the Reserves or National Guard whose only active duty was Active Duty for Training are not eligible for VA Loan Guaranty benefits. However, they may qualify for a veteran's loan under the National Housing Act loan program (FHA/HUD). The Veterans Benefits Act of 2003 provides that the remarriage of the surviving spouse after age 57 shall not bar eligibility for VA home loan.

Upon application, VA will make a determination of eligibility and entitlement and issue a Certificate of Eligibility, which the eligible person should present to the lending institution when applying for the loan (however, the loan application may be made before applying to VA).

There are no time limits for using Loan Guaranty entitlement. Beginning December 16, 2003, the previous delimiting date time limits for Reservists and National Guard members who qualify for Loan Guaranty benefits based on service in the Selected Reserves and/or National Guard are repealed.

Once entitlement has been used it generally cannot be restored, except under the following circumstances:

1. If the entitlement limits have been increased since the previous loan was approved, the difference between the old limits and the new limits may be available for a new VA loan, even if the previous loan is not fully paid off; or

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2. If the property has been sold and the previous loan has been paid in full; or
3. A qualified eligible person buys the property, agrees to assume the outstanding VA loan balance, agrees to substitute the same amount of his or her entitlement for the entitlement originally used to guarantee the loan, *and* the new buyer meets all of the occupancy, income and credit requirements; or
4. **One time only**—If the prior VA loan has been paid in full but the property securing that loan has not been sold or otherwise disposed of, the entitlement used in connection with that loan may be restored.

In each of these cases application for restoration of entitlement must be made by completing and returning VA Form 26-1880, *Request for Determination of Eligibility and Available Loan Guaranty Entitlement*, to the address listed below.

(Mailing Address)

VA Loan Eligibility Center
P.O. Box 20729
Winston-Salem, North Carolina 27120

(Overnight Address)

VA Loan Eligibility Center
251 N. Main Street
Winston-Salem, North Carolina 27155

A veteran or eligible person may sell at any time the property on which a VA loan has been made. However, if the new buyer will be assuming the existing VA loan there are differing requirements, according to whether the original loan was closed before or after March 1, 1988. If the original loan closed before that date, the loan may be assumed without the approval of either VA or the lender; however, the veteran or eligible person who obtained the original loan will remain liable should the current or any future assumer ever go into default. This can be avoided by obtaining a release of liability from the VA office which guaranteed the loan. If the original loan closed on or after March 1, 1988, the loan cannot be assumed unless VA or the lender (or both) are notified, approve the assumer, and release the veteran or eligible person from further liability. The application forms are requested from the lender to whom the payments are being made.

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Study Questions: Loan Guaranty

Using the assigned references and reading materials, answer the following questions:

1. The veteran was a Reservist whose unit was activated during the Gulf War. The veteran was on active duty from November 15, 1990 to April 30, 1991, at which time the Reserve unit returned to its previous status. The veteran eligible for Loan Guaranty benefits?
 - a. True
 - b. False

2. Which may a VA-guaranteed loan *not* be used for:
 - a. To buy and/or improve an existing home to live in.
 - b. To buy a lot on which to place an already-owned mobile home.
 - c. To build an apartment building to use solely as income property.
 - d. To buy a farm including the farm house to live in.

3. The veteran was rated 100% since 1952 because of anatomical loss of both feet. He died when the car in which he was a passenger was struck by a truck. Is the surviving spouse eligible for VA Loan Guaranty benefits?
 - a. True
 - b. False

4. The veteran obtained a VA-guaranteed loan fifteen (15) years ago to buy a home. In January 1987 he sold the home to another person (not a veteran). Rather than refinance the loan, the new owner simply assumed the existing mortgage. After 6 years, the new owner stopped making payments, and the loan has gone into default. The veteran still liable for the loan. (30 year loan)
 - a. True
 - b. False

5. The VA will guarantee a loan to purchase a home in a foreign country.
 - a. True
 - b. False

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6. What is the time limit for using VA Loan Guaranty benefits?
 - a. Ten (10) years after separation from service.
 - b. September 30, 2009 for members or former members of the Selected Reserve.
 - c. There are no time limits for eligible veterans or other eligible persons.
 - d. Both b. and c., above.

7. If a husband and wife are both veterans, can they combine their separate Loan Guaranty entitlements?
 - a. True
 - b. No

8. VA will make a direct loan to eligible veterans under the following circumstances:
 - a. If there are no lenders available in the veteran's local area.
 - b. To a Native American veteran to buy or build a home on tribal lands.
 - c. If the veteran or eligible person does not meet the lender's normal requirements for a loan.
 - d. If several veterans go together to purchase a property.

9. For qualifying service, a veteran must serve _____ after September 7, 1980, if enlisted, or _____ between May 8, 1975 to September 7, 1980.
 - a. 2 years/6 years
 - b. 2 years/181 days
 - c. 90 days/181 days
 - d. 6 years/2 years

10. Even though a veteran has previously used the full amount of Loan Guaranty entitlement, under certain circumstances that entitlement may be restored.
 - a. True
 - b. False

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FORMS

Veteran:

DD-214

VA Form 26-1880, Request for Determination of Eligibility and Available Loan Guaranty Entitlement

Surviving Spouse:

DD-214

Death Certificate of Veteran

Marriage Certificate

VA Form 26-1817, Request for Determination of Loan Guaranty Eligibility- Unmarried Surviving Spouse

Reservist:

VA Form 26-1880

Points Statement (showing Character of Service) or
Statement of Service from Commanding Officer or

NGB-22 (US Army) or

DD Form 256 & Points Statement