

# CHAPTER 16

## STUDY PLAN

# LOAN GUARANTY

## OBJECTIVE

To learn how an eligible veteran or other eligible person may obtain or guarantee 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 (C.F.R.), Part 36
- Guaranteed Loan Processing Manual, M26-1
- Veterans Benefits Manual, §§ 11.4, 11.5.3
- VA Pamphlet 26-4, *VA-Guaranteed Home Loans for Veterans*, available at [http://www.benefits.va.gov/homeloans/documents/docs/vap\\_26-4\\_online\\_version.pdf](http://www.benefits.va.gov/homeloans/documents/docs/vap_26-4_online_version.pdf)
- *Federal Benefits for Veterans, Dependents and Survivors*, 2014 edition
- VA Fact Sheets, available at <http://www.benefits.va.gov/BENEFITS/factsheets.asp#BM5>:
  - Farm Loans: VA Home Loans for Rural Residents
  - Home Loan Guaranty
  - Native American Veteran Direct Home Loan Program
  - Specially Adapted Housing Program

## USE OF LOAN GUARANTY PROGRAM

The VA will guarantee loans to be used for the following purposes:

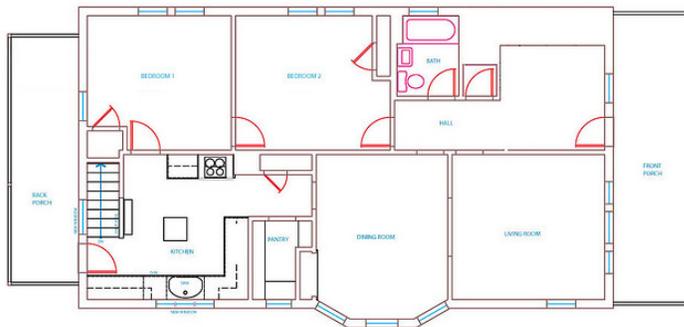
- To buy a home (including a townhouse or a condominium unit in a VA-approved project)

- 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
- To refinance a mobile home loan in order to acquire a lot

The veteran or eligible person must actually live on the property for which the VA-guaranteed loan is made. 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 purposes may be obtained through the Farmers Home Administration and the Small Business Administration, respectively, both of which give preference to veterans. Also, VA-guaranteed loans are not available outside U.S. territorial limits.

## VA GUARANTEES THE LOAN

Except as noted in the section 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 loans limit 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 MAKES THE LOAN

**To learn about** the specific eligibility requirements for the Specially Adapted Housing grant and the Special Housing Adaption grant, visit [www.benefits.va.gov/homeloans/%20adaptedhousing.asp%20](http://www.benefits.va.gov/homeloans/%20adaptedhousing.asp%20).

Under certain circumstances VA will make direct loans 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 generally \$417,000 or the actual cost of the home, whichever is less; counties with higher costs of living have higher loan caps

(see [www.benefits.va.gov/HOMELOANS/documents/docs/2014\\_county\\_loan\\_limits.pdf](http://www.benefits.va.gov/HOMELOANS/documents/docs/2014_county_loan_limits.pdf) for more details).

VA may also make direct loans to eligible **disabled veterans who qualify for the Specially Adapted Housing grant**, to help cover the difference between the amount of the grant and the cost of the housing unit. In fiscal year 2014, the maximum dollar amount allowable for SAH (*Specially Adapted Housing*) grants is \$70,465. The maximum dollar amount allowable for SHA (*Special Home Adaptation*) grants for fiscal year 2015 is \$14,093. This amount will be adjusted annually based on a cost-of-construction index.

In addition, VA may also make direct loans to **veterans who live in rural areas or small towns** far from large metropolitan areas, upon a showing that there are no available local lenders except at exorbitant interest rates and the veteran is unable to obtain financing from any other sources.



## GENERAL TERMS OF THE LOAN GUARANTY OR LOAN

The veteran or 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 may vary, according to the amount of down payment made. If the veteran is in receipt of service-connected

disability compensation or would be entitled to compensation but for 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. The maximum allowable length of the loan term is 30 years and 32 days. The repayment plan may be a fixed-payment, a graduated payment, a "buy down," 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.

## ELIGIBILITY

### BASIC ELIGIBILITY REQUIREMENTS

ERA OF SERVICE	LENGTH OF SERVICE REQUIRED	EXCEPTIONS
World War II	At least 90 days of continuous active service	Length of service requirement waived if discharged for service-connected disability
Korean Conflict	At least 90 days of continuous active service	Length of service requirement waived if discharged for service-connected disability
Vietnam Era	At least 90 days of continuous active service	Length of service requirement waived if discharged for service-connected disability
Peacetime between 7/26/47-6/26/50 2/1/55-8/4/64 5/8/75-9/7/80 if enlisted 5/8/75-10/16/81 if officer	At least 181 days of continuous active service	Length of service requirement waived if discharged for service-connected disability

ERA OF SERVICE	LENGTH OF SERVICE REQUIRED	EXCEPTIONS
Peacetime between 9/8/80-7/31/90 if enlisted 10/17/81-7/31/90 if officer	At least 24 months of continuous active service <b>or</b> the full period (at least 181 days) for which called or ordered to active duty	Length of service requirement waived if: Discharged for service-connected disability, <b>or</b> Served at least 20 months and discharged for convenience of the government <b>or</b> Served at least 181 days and was discharged because of hardship or reduction in force
Persian Gulf Conflict 8/2/90 – TBD	At least 24 months of continuous active service <b>or</b> the full period (at least 181 days) for which called or ordered to active duty	Length of service requirement waived if: Discharged for service-connected disability, <b>or</b> Served at least 20 months and discharged for convenience of the government <b>or</b> Served at least 90 days and was discharged because of hardship or reduction in force

### CHARACTER OF SERVICE REQUIREMENTS

Regardless of era or length of service, to be eligible for VA Loan Guaranty benefits, a veteran must have been discharged under conditions other than dishonorable. This means that only veterans with honorable or general (under Honorable conditions) discharges, or veterans who have received favorable Character of Discharge determinations from the VA, are eligible.

### RESERVE AND NATIONAL GUARD

Certain members of the Selected Reserve and National Guard who are not otherwise eligible for Loan Guaranty benefits, who have served at least six years in the Reserves or National Guard and who continue to serve in the Selected Reserve, or who have been discharged

under conditions other than dishonorable, or who have been discharged because of a service-connected disability, or who have been placed on the retired list, or who 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 ELIGIBLE PERSONS**

Other persons eligible for VA Loan Guaranty benefits include the unremarried surviving spouse of a veteran who died on active duty or who died of service-related causes; 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. An eligible surviving spouse who has remarried but whose remarriage has been terminated by death, divorce, or annulment regains eligibility for VA Loan Guaranty benefits. Beginning January 1, 2004, if the surviving spouse is over age 57 at the time of remarriage, Loan Guaranty eligibility is not terminated.

Upon application, VA will make a determination of eligibility and entitlement and issue a **Certificate of Eligibility**, which the veteran or eligible person should present to the lending institution when applying for the loan (however, the loan application may be made before applying to VA). A completed VA Form 26-1880, *Request for a Certificate of Eligibility*, should be sent together with appropriate proof of qualifying service and relationship (if applicable) to the VA Eligibility Center (*NOT* to the VA Regional Office) at the address below:

**Atlanta Regional Loan Center**  
**ATTN: COE (262)**  
**P.O. Box 100034**  
**Decatur, GA 30031**

The Eligibility Center handles only issues pertaining to Loan Guaranty *eligibility and entitlement*—questions regarding other Loan Guaranty matters should be directed to the VA Regional Loan Center having jurisdiction of the loan. For California residents this is:

Department of Veterans Affairs  
VA Regional Loan Center  
3333 N. Central Avenue  
Phoenix, AZ 85012-2402  
Tel. 1-888-869-0194

## RESTORING LOAN GUARANTY ENTITLEMENT

Once Loan Guaranty 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
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 submitting VA Form 26-1880, *Request for a Certificate of Eligibility*, to the appropriate VA Eligibility Center.

There are no time limits for using Loan Guaranty entitlement.

## **SELLING THE PROPERTY ON WHICH THE LOAN WAS MADE**

A veteran or eligible person may at any time sell 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, depending on whether the original loan closed before or after March 1, 1988. If the original loan closed before March 1, 1988, 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 Regional Loan Center.

If the original loan closed on or after March 1, 1988, the loan cannot be assumed by another party 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 for this may be obtained from the lender to whom the payments are being made, or from the VA Regional Loan Center.



## STUDY QUESTIONS

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. Is the veteran eligible for Loan Guaranty benefits? (Y/N)

38 U.S.C. § 3702(a)(2)(D); 38 C.F.R. § 3.12a(a)(1)

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 farmhouse to live in.

38 U.S.C. § 3704(c)

3. The veteran was rated 100% since 1952 because of service-connected anatomical loss of both feet. He died when a truck struck the car in which he was a passenger. Is the surviving spouse eligible for VA Loan Guaranty benefits? (Y/N)

38 U.S.C. § 3701(b)(2)

4. The veteran obtained a VA-guaranteed loan in 1980 to buy a home. Last year he sold the home to another person (not a veteran). Rather than refinance the loan, the new owner simply assumed the existing mortgage. After six months the new owner stopped making payments, and the loan has gone into default. Is the veteran still liable for the loan? (Y/N)

38 U.S.C. § 3713; 38 C.F.R. § 36.4326(f)

5. The cost of a VA-guaranteed loan includes funding fees, which may be proportionately reduced if the veteran has any service-connected disabilities, depending on the degree of disability. (T/F)

38 U.S.C. § 3729 (c)

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 using this benefit.
  - d. Both a. and b. above.

38 U.S.C. § 3702

7. If two spouses are both veterans, can they combine their separate Loan Guaranty entitlements? (Y/N) 38 C.F.R. § 36.4326(f)

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.
- e. Either a. or b., above.
- f. Either b. or c., above.

38 USC 3711; 3761-3764; 38 CFR 36.4500-4527

9. Will VA guarantee a loan to purchase a home in a foreign country? (Y/N)

38 C.F.R. § 36.4214, 36.4523

10. Even though a veteran has previously used the full amount of Loan Guaranty entitlement, under certain circumstances that entitlement may be restored. (T/F)

38 U.S.C. § 3702 (a), (b)