

LEGISLATIVE HISTORY OF THE VA HOME LOAN GUARANTY PROGRAM



PROGRAM HISTORY

The Department of Veterans Affairs home loan programs serve a clientele which is diverse in many ways. The only common denominator of this clientele is service in the Armed Forces of the nation. Since the inception of these programs the objective has been to assist eligible veterans to become homeowners. Veterans are assisted by making it possible for them to compete in the market place for credit with persons who were not obliged to forego the pursuit of gainful occupations by reason of service in the Armed Forces of the nation. The VA programs are intended to benefit men and women because of their service to the country, and they are not designed to serve as instruments of attaining general economic or social objectives.

VA has guaranteed over 18 million home loans to veterans to purchase or construct a home, or refinance another home loan on more favorable terms. The VA home loan program has made mortgage credit available to many veterans whose loans otherwise would not have been made. In this connection, although VA borrowers have been directly favored by the more liberal terms on those loans, it is also likely that these terms have induced a competitive liberalization of the terms on conventional mortgages, whose recipients have benefited as well. As a result, the impact of the VA home loan programs on the economy and on the mortgage market vastly exceeds the actual volume of VA home loans.

Initial Objectives and Philosophy

The home loan guaranty program was originally conceived in 1944 as a part of an attack on the harsh aftermath associated with wars. The overall objectives of this attack were to diminish to the greatest possible extent the economic and sociological problems of post war readjustments of millions of men and women then serving in the Armed Forces.

The program was one of the major innovations and a most important part of the original Servicemen's Readjustment Act of 1944, Public Law 78-346. The first legal framework was set forth in Title III of that Act. In a way, the loan guaranty program was advanced as an alternative device to a cash bonus, because it would be vastly less expensive to the Government, and because it would better serve the needs of veterans.

Credit was viewed as one of the cornerstones of a program to aid the veteran in his/her effort to readjust to civilian life. In the opinion of the supporters of the original legislation, the Government should provide the means whereby the veteran could obtain favorable credit which would permit him/her to shelter his/her family or begin a business or farming venture. This concept arose because of the feeling that veterans, in view of their service in the Armed Forces had missed an opportunity to establish a credit rating which could be the basis of borrowing to acquire a home or to establish a business. The establishment of the loan guaranty program was an attempt to place the veteran on a par with his/her nonveteran counterpart.

The loan guaranty program also provided an investment outlet for large amounts of savings which existed in the economy at the end of World War II. During the years of the war, normal investment outlets were restricted because of the shift from the production of civilian goods to war production. By imposition of price and production controls on many items, the normal flow of consumer durable goods had been reduced. Thus, individual savings reached record proportions, and large amounts of money became available for investment purposes. Expectations at the time that there would be a normal postwar depression shortly after termination of the war made it seem important that planning be done to stimulate the redirection of accumulated liquid capital into normal peacetime avenues.

Historical Development

Under the foundation law -- Public Law 78-346 -- the maximum amount of guaranty was limited to 50 percent of the loan, but not to exceed \$2,000; loans were limited to a maximum 20 years, with a maximum interest rate of 4 percent; the purchase price paid or to be paid, or the construction cost, including the value of the land, could not exceed the reasonable normal value as determined by an appraisal; and loans could be made by persons, firms, associations, corporations or by governmental agencies and corporations under either state or Federal jurisdictions. Home loans could be used for the purchase, construction, improvement or repair of residential property which veterans intended to occupy as their homes. With reference to terms of the loan, the Act further stated that such terms should bear a proper relation to the veteran's present and anticipated income.

Initially, all loans had to have the prior approval of the Veterans Administration.

To be eligible to make use of the loan guaranty benefit, the veteran must have served in the active military or naval forces of the United States for a period of 90 days or more any time on or after September 16, 1940 and before official termination of World War II. In this connection, a veteran could apply for a loan anytime within 2 years after separation from the service or 2 years after the official end of the war, whichever was the later date. However, no applications were to be received more than 5 years after the termination of the war.

The original version of the loan guaranty program contained various shortcomings which became evident during the first year of operation. First, real estate prices had risen so much that the \$2,000 maximum guaranty was not large enough. Second, the requirement that the price of the real estate must be "normal" caused difficulties because to many this indicated prewar prices. Third, the limitation of two years after the war as the period during which loan guaranties could be obtained was feared to be too short because of the great potential number of veteran borrowers and the possible inflationary potential. And, fourth, the 20-year maturity on loans required by the Act meant that monthly payments were so high that many veterans were precluded from obtaining loans.

These various shortcomings of the program were considered in hearings before committees of the House and Senate and amendments were enacted to Title III in 1945 by Public Law 79-268.

The maximum amount of guaranty available to a veteran was increased to \$4,000 for home loans. The term "normal" was removed from the requirement of "reasonable normal value", leaving it as "reasonable value." The maximum maturity for real estate loans was extended to 25 years and for farm loans to 40 years.

No longer was the home loan benefit aimed at immediate readjustment aid. It was to be a long-range benefit open to any eligible veteran wishing to buy a home within 10 years if he/she could meet the credit requirements. The original idea of keeping the purchase price low by the use of "reasonable normal value" was abandoned in favor of a large volume of transactions at current market prices.

These changes constituted an almost complete revision of the loan guaranty program. It changed many of the basic objectives, such as holding the price of properties to prewar level. An even more basic philosophical change was that the original Act was considered only as a readjustment aid for the veteran who wanted to start a home, a business, or buy a farm when he/she got out of the service. The extension of ready-made credit by the Government was to make up for his/her lost time. The new Act provided something different. It could no longer be considered solely as an adjustment benefit for the few who had immediate and specific plans after leaving service. It was now open to all veterans who might decide to avail themselves of the benefit at any time within 10 years after the official end of the war. In terms of aiding the economy over the conversion period the objectives had also changed. It was now a long-range housing program for veterans. This list of the new objectives has been maintained consistently throughout the subsequent changes in the program. Nearly all changes have been designed to help the veteran become a homeowner by extending the terms, making mortgage money available, protecting him/her from excessive charges and faulty construction.

In the years 1948 and 1949, residential construction reached successive new all-time highs each year. Yet the demand for new dwelling units was still far from satisfied. Consequently, in the Spring of 1950, Congress enacted legislation changing both the Servicemen's Readjustment Act and the National Housing Act. There were eight basic changes in the VA home loan program included in the Housing Act of 1950, Public Law 81-475. Five of these changes involved, or at least implied, a change in objectives from the original legislation. These changes in objectives were, in a sense, extensions of the changed objectives which were started by the 1945 amendments, that is, liberalizing the benefit so that more veterans could participate.

First, the maximum amount of guaranty was changed from 50 percent of the loan amount, but not to exceed \$4,000 to 60 percent and \$7,500. Second, the maximum maturity of loans was lengthened from 25 to 30 years. Third, unremarried widows of veterans who had died in service or as a result of service-connected injury or disease were given the same loan privileges as veterans. Fourth, veterans whose homes were obtained with VA loans but lost through fire or natural hazards, or were taken by public condemnation, or were disposed of for other compelling reasons not the

fault of the veteran, were given back their full entitlement on a loan provided the VA no longer had any liability on the original loan. Fifth, the law authorized the Veterans Administration to establish minimum construction standards; these standards were intended to lend additional support to the appraisal procedures and thus protect the veteran from getting an inferior product. Sixth, section 505 of Title III of the Servicemen's Readjustment Act, which had provided for combination VA-FHA loans, was repealed; the combination loan carried an effective interest cost of about 4.8% (i.e., 4-1/2% interest plus one-half percent insurance on the 80% portion insured by FHA and 4% on the remaining 20% or less guaranteed by the VA). Seventh, the law authorized VA to issue regulations setting the amounts of fees and charges which the lenders might impose on the veteran.

The eighth change was a provision for a direct loan program. In addition to changes affecting the loan guaranty program, the Housing Act of 1950 further extended the possibility of veterans participating in the loan program by providing for direct loans in areas where guaranteed loan could not be obtained readily or where private mortgage money was not available. These loans could be used for the purchase or construction of homes or for construction or improvement of farm-houses. The authority for the Veterans Administration to make such loans was granted for about a year but was extended subsequently from time to time. Since October 1, 1980 direct loans have been available only in connection with specially adapted housing grants to veterans with certain severe disabilities. The Direct Loan Revolving Fund for VA direct loans was established by Public Law 139 (82nd Congress), approved September 1, 1951.

The Korean conflict posed the same problems for its veterans as World War II in terms of impact upon schooling, jobs or building up an equity for the purchase or construction of a home, starting a business, or buying a farm or farm equipment. Congress readily recognized that these veterans were also entitled to aid in readjustment to civilian status upon leaving the service, and passed the Korean GI Bill, Public Law 82-550, in 1952. An increasing number of complaints as to the quality of new houses constructed under the provisions of the loan guaranty program led the Veterans Administration to require minimum planning and general acceptability standards relative to land development, sanitary and drainage systems, water supply, and other development improvements. The 1950 legislation had permitted only actual construction standards.

In order to give added enforcement powers to both construction and planning standards, the Administrator of Veterans Affairs was given authority to refuse to appraise any dwelling unit or project owned by a person or firm who had previously sold housing to veterans and which had been found to have substantial deficiencies or to those whose transactions had been in other ways unduly prejudicial to veteran purchasers. The Administrator was also empowered to refuse to guarantee loans made by lenders who had failed to keep accurate records or otherwise willfully engaged in practices detrimental to veteran's interests.

As stated above, in 1952 Public Law 82-550 extended the home loan benefit to Korean veterans. Therefore, Public Law 84-898, approved August 1, 1956, extended the home loan program for World War II veterans until December 31, 1958. The home loan program was also extended by the 85th Congress and the 86th Congress. Public Law 86-665, approved July 14, 1960, established the Loan Guaranty Revolving Fund from which to pay the operating expenses of the program.

In 1960, the veteran's home loan program reached its lowest point in 15 years despite the fact that more than 14 million veterans of World War II and the Korean conflict had not used their entitlement to home loans. Public Law 87-84, approved July 6, 1961, removed the expiration dates of the home loan program for World War II and Korean veterans, from the then existing law. In lieu, the law put into effect a new phase-out formula. In essence, the new Act provided for all World War II veterans to have at least until July 25, 1962, to obtain guaranteed or direct loans; or World War II veterans to have 10 years from the date of discharge from active duty during World War II, plus an additional period equal to one year for each 3 months of active duty during World War II, but in no case beyond July 25, 1967. All World War II veterans with a service-connected disability discharge had until July 25, 1967 to use their guaranteed or direct loan benefits.

A similar formula was developed for Korean veterans. These veterans had at least until February 1, 1965, to obtain a guaranteed or direct loan; or 10 years from the date of discharge from active duty during the Korean conflict, plus an additional period equal to one year for each 3 months of active duty during the Korean conflict, but in no case beyond January 31, 1975. As in the case of World War II veterans with a service-connected disability, Korean conflict veterans with a service-connected disability had until January 31, 1975 to use their home loan benefits.

In addition to the phase-out formula, the Act also authorized additional funds for the veterans' direct home loan program. Funds for direct loans had been inadequate and a big waiting list had been accumulated.

In 1966, Congress passed and the President approved Public Law 89-358, the Veterans' Readjustment Benefits Act of 1966, better known as the "Cold War GI Bill." This Act, among other things, made post-Korean veterans (those who served in active-duty in the Armed Forces after January 31, 1955) eligible for VA guaranteed home and farm loans and direct loans. The requirement for discharge or release from service was waived for veterans who served 2 years on active duty and continued in such service without a break therein. Although the loan benefits for post-Korean veterans was similar in type to those available for World War II and Korean veterans, there was one noticeable difference. Unlike the loans available to World War II and Korean veterans, the post-Korean loan program was subject to a one time funding fee in the sum of 1/2 of one percent of the loan. This fee, which was in effect until it was terminated by Public Law 91-506 on October 23, 1970, formed a reserve fund to cover any losses that might arise under the program.

The law also authorized the Administrator to adjust the VA home loan interest rate ceiling according to the demands of the loan market. In addition, it increased the direct loan amount from \$15,000 to \$17,500. The law also had a provision requiring the consent of an individual before there is any offsetting or withholding of VA benefit payments on account of an indebtedness arising out of a defaulted loan. In approving the Act in 1966, Congress believed that post-Korean veterans were beset with problems almost identical with those to which the two previous GI bills were addressed. In the Senate Committee Print which accompanied S. 9, the proposed Veterans' Readjustment Benefits Act, it was stated: "Like their fathers and elder brothers, post-Korean veterans lost time from their competitive civil lives directly because of military service." The cold war and the compulsory draft law, according to the Committee Print, brought about a compelling need for the GI Cold War Bill.

Public Law 90-301, approved May 7, 1968, made some additional changes to the VA home loan programs all designed to improve their operations and to adjust to credit problems. First, the maximum guaranty amount was increased from \$7,500 to \$12,500. Second, the law also empowered the VA to extend aid to distressed veteran homeowners who, after relying on VA or FHA construction standards and inspections during construction,

found major structural defects in their properties which were purchased with VA mortgage loans. Third, the law also authorized the VA to guarantee a loan even though the purchase price exceeds the reasonable value of the property.

Public Law 90-301 also established the Commission on Mortgage Interest Rates. The statutory charge to the Commission grew out of a general background of rapidly rising interest rates and increasing shortages of mortgage credit and the specific congressional action of temporarily suspending the statutory ceiling of 6 percent on the interest rate of FHA-insured and VA-guaranteed mortgages. In broad terms, the Commission's assignment was to study and recommend ways of dealing with VA-FHA ceilings and of increasing the availability of mortgage credit at reasonable rates of interest to help assure that the nation's housing goal is met. On October 23, 1970, the President signed into law the Veteran's Housing Act of 1970, Public Law 91-506. The new Act was a milestone for the VA home loan program, making important changes which greatly enhanced the viability of the loan guaranty and direct loan programs.

The law made seven major changes in these programs. It removed the delimiting dates on veterans' entitlement. It authorized a manufactured home loan program. It authorized direct loans for veterans qualified for Specially Adapted Housing Grants irrespective of location. The law also eliminated the terminal date of the direct loan program. In addition, the law eliminated the funding fee for post-Korean veterans and authorized loans on condominium units and refinancing loans.

The elimination of charging a funding fee to post-Korean veterans was a change rendered inevitable by events in Southeast Asia since 1965. The funding fee requirement was imposed by Public Law 89-358, in the interests of distinguishing between the "hot war" veterans of World War II and the Korean conflict and the "cold war" veterans of service after January 31, 1955.

Of all the changes made by the Veterans' Housing Act of 1970, the removal of the delimiting dates on veterans' entitlement had the most salutary effect. The expired unused entitlement of nearly 9 million World War II and Korean conflict veterans was revived. The entitlement of every eligible veteran remains available until used. A veteran's entitlement is now insulated against periodic intervals of stringency in the availability of mortgage capital. The refinancing loan provision was born out of concern

for veterans who had purchased homes at high interest rates. The reasoning behind the provision was that such veterans should have the opportunity to avail themselves of lesser interest cost when rates come down. This new authority, however, permits refinancing for any reason. There are millions of veterans who have built up substantial equities in their properties and who can now use their GI loans to cash in on these equities. The VA loan program now affords veterans the opportunity to realize cash by refinancing paid down loans and this gives them the means to make improvements in their homes, to pay for educating their children, and to accomplish other worthwhile purposes.

Taken as a whole, the Veterans' Housing Act of 1970, restructured the loan guaranty and direct loan programs so that the future of those programs will be much more active and dynamic. The Veterans Housing Act of 1974, Public Law 93-569, enacted December 31, 1974, contained a number of provisions which further expanded VA home benefits.

Restoration of Entitlement. The Act made it possible for a veteran who had used his/her GI loan benefit, to regain the use of his/her entitlement provided the veteran disposed of the property and the loan had been paid in full or another veteran agreed to assume the outstanding balance on a GI loan and consented to the use of his/her entitlement. Restoration of entitlement was previously restricted by a requirement for a compelling reason for the veteran's disposition of the property, or loss of the property by condemnation or hazard. As a consequence of the elimination of the compelling reason requirement, over 4 million veterans whose GI home loans have been paid in full became potentially eligible for new loans.

Expanded Automatic Processing. Previously the law provided that only supervised lenders (those subject to State or Federal supervision and examination, such as savings and loan associations, banks and insurance companies), could make VA loans without prior VA approval. Public Law 93-569 authorized VA to extend the automatic processing privilege to non-supervised lenders which meet standards prescribed by VA.

Condominiums. The new Act authorized VA to approve condominium projects for guaranteed loans without the previous stipulation that HUD must have, prior to VA guaranty of any loan in such a project, insured at least one loan in the project. This feature was also expected to generate new business of substantial volume.

Increases -- Specially Adapted Housing Grant and Guaranty. The Specially Adapted Housing Grant (made to assist severely disabled veteran in constructing or modifying their home) was increased from \$17,500 to \$25,000. The maximum guaranty for conventionally constructed housing was raised to \$17,500. These changes were made in recognition of the increasing costs of housing.

Manufactured Homes. The Act removed the July 1, 1975 expiration date for VA's manufactured home program and authorized the following increased loan maximums: \$12,500 for single-wide manufactured homes, \$20,000 for double-wide units (maximum for double-wide and undeveloped lot was \$27,500).

The loan maturity for double-wide homes was set at 20 years. Under the Act VA received authority to guarantee loans for the purchase of used manufactured homes which meet VA requirements for construction, design, general acceptability and safety. VA may now guarantee loans for the purchase of manufactured home lots in those cases where veterans already own manufactured homes. These loans may include the cost of making necessary site preparations.

Farm and Business Loans. The Act repealed VA's authority to guarantee loans for these purposes. (VA is still authorized to guarantee loans for the purchase or construction of farm houses which veterans will occupy as their homes.) The Act also amended the Federal Credit Union Act to permit credit unions to make GI manufactured home loans at maturities set forth in the new law.

The Veterans Housing Amendments Act of 1976, (Public Law 94-324) made further refinements in the program. The Act extended eligibility to veterans whose only service was between World War II and the Korean conflict, increased the maximum direct loan from \$25,000 to \$33,000, increased the guaranty on manufactured home loans from 30% to 50%, and continued the direct loan revolving fund. The Act also made veterans with service after January 31, 1955 eligible for housing benefits in Chapter 37, separating the benefits for education purposes from housing eligibility thus expressing the intent of Congress to continue the housing benefits for future veterans.

The Veterans' Housing Benefits Act of 1978 (Public Law 95-476) increased the maximum loan guaranty entitlement from \$17,500 to \$25,000 for home

and condominium loans, and reduced the minimum service requirement for eligibility purposes for Vietnam Era veterans (August 5, 1964 to May 7, 1975) from 181 days to 90 days in order to equate Vietnam service with that performed in prior wartime periods. Authority to guarantee condominium loans was expanded to include units in a project or structure converted to a condominium. New authority was provided to guarantee or make loans to improve a dwelling or farm residence by installing solar heating, solar heating and cooling, or combined solar heating and cooling, or by application of a residential energy conservation measure. Also, the Act authorized the Administrator to establish a higher interest rate for such energy conservation loans and for other home improvement loans.

The Specially Adapted Housing Grant was increased from \$25,000 to \$30,000, and a number of changes were made to the manufactured home program: Maximum loan limits were eliminated and instead a maximum guaranty was provided for manufactured home loans of \$17,500, similar to the \$25,000 maximum guaranty arrangement for conventionally-constructed home loans. The Act removed the requirement that a veteran have maximum entitlement available for use in order to obtain a manufactured home loan, specifying that a veteran could use remaining entitlement for manufactured loan purposes provided the veteran has disposed of any previously-acquired manufactured home unit purchased with VA financing. Finally, the Act increased the maximum term for a loan to purchase a single-wide manufactured home or manufactured home lot from 12 years and 32 days to 15 years and 32 days.

The Veterans' Disability Compensation and Housing Benefits Amendments of 1980 (Public Law 96-385) increased the maximum loan guaranty entitlement from \$25,000 to \$27,500 for home and condominium loans. The maximum loan guaranty entitlement for manufactured home purposes was similarly increased from \$17,500 to \$20,000. The Act added a new loan purpose for the home and condominium loan program and the manufactured home loan program. A veteran may now refinance his or her home, condominium or manufactured home loan currently guaranteed, insured or made by the VA with a VA guaranteed loan for the purpose of reducing the interest rate payable on the loan. No additional charge is made against the veteran's entitlement as a result of a loan for the purpose of an interest rate reduction. The third major amendment made by the Act authorized a new Specially Adapted Housing Grant of up to \$5,000 for

veterans with service-connected disabilities of blindness in both eyes or the anatomical loss or loss of use of both hands.

In 1981 the VA was authorized to guarantee graduated payment mortgages by Public Law 97-66. The Act also increased the specially adapted housing grant from \$30,000 to \$32,500 and extended maximum loan terms on manufactured homes. Terms were extended to 15 years for manufactured home lots, to 20 years for single-wide units and to 23 years for double-wide manufactured homes. The law also added a new minimum active-duty service requirement, which was codified at 38 U.S.C. 3103A, and later amended by Public Law 97-306. Essentially, a person who enlists after September 7, 1980 is eligible for home loan benefits only if he or she completes the shorter of: a) 24 months of continuous active duty; or b) the full period for which called or ordered to active duty. The law provides exceptions from the requirement, including an exception for persons discharged or released from active duty for a disability incurred or aggravated in the line of duty.

Public Law 97-72 authorized until September 30, 1986 a small business loan program in the Veterans Administration for disabled and Vietnam era veterans. The Administrator was authorized to make or guarantee business loans up to \$200,000 to business concerns at least 51% owned by veterans of the Vietnam-era or rated by the VA as 30 percent or more disabled. There were no appropriations of money to the VA to implement this program. Funds were provided to the Small Business Administration to make business loans especially to veterans, as that agency had greater expertise in business loan matters.

In 1982, the charging of a one half of one percent funding fee was reinstated by Public Law 97-253. The fee was to be collected on all VA guaranteed loans with the proceeds deposited into the Treasury of the United States as miscellaneous receipts. Individuals receiving VA compensation, or those who would receive it but for the receipt of military retired pay and surviving spouses of veterans who died from a service-connected disability are currently exempt from payment of the funding fee.

Public Law 97-306 authorized refinancing loans on manufactured homes in order that veterans could purchase the lot on which the manufactured home is or would be placed.

The Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, included a requirement that the Secretary of Agriculture, the Secretary of Housing and Urban Development and the VA Administrator each accept an administrative approval of any housing subdivision made by any of the others, so that not later than January 1, 1984, there would be total reciprocity for housing subdivision approvals.

In 1984, Public Law 98-223 expanded section 3702(b)(2) (formerly 1802) concerning restoration of a veteran's home loan entitlement upon substitution of another veteran's entitlement. This act eliminated the previous requirement that the substituting veteran be the "immediate-transferee" of the property. The act also allowed the Administrator to guarantee a loan for a manufactured home permanently affixed to a lot and considered real estate in the area it is located, on the same basis as a loan for a conventionally built home under 38 U.S.C. 3710 (formerly 1810).

Public Law 98-369 increased the loan funding fee from one half of one percent to one percent, required collection of the fee on VA-acquired property sales financed by the VA, and provided for deposit of the fees collected directly into the loan guaranty revolving fund. The act also specified that not more than 75% nor less than 60% of VA-acquired property sales would be sold with VA providing the financing. With respect to defaulted loans, the act prescribed that the holder of the loan would have the option to convey the property to the VA only if the "net value" of the property to VA exceeds the total indebtedness less the amount of the guaranty, or if a larger bid was made as the minimum amount permitted under state law. "Net value" was defined as the fair market value less VA's estimates of the costs of acquiring and disposing of the property, including taxes, maintenance and resale expenses. Public Law 98-543 increased the specially adapted housing grant for severely disabled veterans to \$35,500 and increased the housing grant to \$6,000 for veterans with the service-connected disabilities of blindness in both eyes or the anatomical loss or loss of use of both hands.

In 1986, Public Law 99-576 authorized special housing adaptation grants for homes already adapted with the necessary special features. This law also requires the Administrator to adopt VA credit underwriting standards in regulatory form. Lenders would be required to certify that loans conformed to the standards. A new section 1831 (since renumbered 3731) was added to Title 38, U.S. Code to require adoption of qualification standards for appraisers and a list of approved appraisers. Lenders and veterans are

given the right to obtain a second appraisal if either disagrees with the first estimate of value. In these cases, VA must consider both appraisals in determining the reasonable value of the property.

Public Law 100-198 was signed into law on December 21, 1987. Section 2 extended the one-percent funding fee for guaranteed and vendee loans until September 30, 1989, and assured that all surviving spouses of veterans who died from service-connected disabilities would be exempt from payment of the funding fee, by exempting those who had eligibility in their own right based on active duty service.

Section 3 increased the guaranty amount to \$36,000 and established a new formula for the calculation of the guaranty, as follows: for loans of \$45,000 or less, 50% of the loan is guaranteed; for loans above \$45,000, 40% of the loan is guaranteed up to \$36,000, whichever is less, but never less than \$22,500; for manufactured home loans the guaranty is 40% of the loan up to \$20,000. The amount of any manufactured home loan guarantee was limited to 95 percent of the purchase price of the property securing the loan.

Section 4 required the VA to provide information, and to the extent possible, counseling, to veterans in default as to the alternatives available to foreclosure, what VA's and the veteran's liabilities would be in the event of foreclosure, and the availability of counseling.

Section 5 provided additional instructions for computing interest on foreclosed loans. The provisions apply to defaults which occur on or after February 20, 1988. Under the new formulas, VA will exclude from the guaranty claim payment and from the no-bid calculation interest which accrues during periods of forbearance granted at VA's request and when the veteran files for bankruptcy. This adjustment will only be made if doing so would result in VA offering to acquire the property when the case would otherwise be a no-bid. In cases where VA is at fault for the delay in foreclosure, for example, a failure to provide bidding instructions in a timely manner, VA will also exclude from the no-bid calculation interest which accrues during the period of delay, but will allow such interest in the computation of the guaranty claim.

Section 6 of Public Law 100-198 changed the percentage of properties that can be sold with VA financing. The law required that "not more than 65 percent, nor less than 50 percent" may be sold with VA financing. This

provision was effective October 1, 1987. VA loans made to finance the purchase of an acquired property were limited to 95 percent of the purchase price, except for newly authorized loans which include additional funds for rehabilitation of the property and in cases where it was determined that market conditions required an exception. The cash sale provisions applied to loans made on or after January 21, 1988, and ceased to have effect on October 1, 1990.

Section 7 provided that on interest rate reduction refinancing loans, either present or previous occupancy of the home by the veteran would be sufficient to satisfy the occupancy requirement. If the veteran is in active duty status, present or previous occupancy by the veteran's spouse would satisfy the requirement. On rate reduction loans, the term of the loan may now exceed that of the original loan by up to 10 years, subject to the maximum of 30 years and 32 days. This section limits the amount of all other refinancing loans, i.e., those under section 3710(a)(5) (formerly 1810), to 90 percent of the appraised value of the dwelling.

Section 8 provided that occupancy of the spouse of a veteran on active duty, in certain circumstances, is sufficient to meet the requirements of the law for loans made on or after January 21, 1988.

Section 9 of Public Law 100-198 authorized, under specific conditions, the sale of acquired properties to certain entities to assist homeless veterans and also authorized the sale of such properties to individuals or groups that will rehabilitate the property using veterans enrolled in a job training program. Such properties are to be then offered for sale with priority given to veteran-purchasers.

Section 10 of Public Law 100-198 provided detailed and specific limitations concerning the assumption of guaranteed loans. These include a requirement for underwriting of the assumer, automatic release of liability of the veteran in certain cases, a one-half of one percent funding fee applied to the transaction and the possibility of accelerating the loan if the requirements are not met. These provisions applied to loans for which commitments were made on or after March 1, 1988. They do not apply to loans made prior to that date.

Section 11 of Public Law 100-198 provided minimum qualifications requirements for appraisers and provided authorization for the appraisal

report to be forwarded to and reviewed by certain lenders. Policies and procedures were to be published in regulations.

Section 12 exempted VA guaranteed loans from sequestration under the Gramm-Rudman Act, effective November 19, 1987.

Section 13 required the Secretary to use State statistics, if available and reliable, in determining minimum residual income requirements.

Section 14 of Public Law 100-198 required the listing of VA acquired properties with real estate brokers to facilitate sales.

Public Law 100-253 signed February 29, 1988, corrected a technical drafting error in Pub. L. 100-198. This law reinstated the veteran's bank of guaranty entitlement and raised it from \$27,500 to \$36,000.

Public Law 100-322 increased the specially adapted housing grants for severely disabled veterans to \$38,000 and \$6,500, respectively. Public Law 100-322 also renumbered a number of sections in chapter 37 of title 38, United States Code.

Public Law 100-527 redesignated the Veterans Administration as the Department of Veterans Affairs, effective March 15, 1989.

On December 18, 1989, the President signed Public Law 101-237, title III of which is known as the Veterans Home Loan Indemnity and Restructuring Act of 1989. This law established a new guaranty and indemnity fund for loans closed on or after January 1, 1990, except manufactured home loans guaranteed under section 3712 (formerly 1812). Under this law, the veteran pays a loan fee of 1.25 percent with no downpayment, 0.75 percent with a 5 percent downpayment and 0.5 percent with a 10 percent downpayment. The government also contributes 0.75 percent on each GI loan (0.5 percent on 10 percent downpayment loans). Veterans who pay a fee under this law or are exempt from payment of the fee, except for purchasers of manufactured homes under section 3712, vendee borrowers and assumers, will not be liable to the Secretary in the event of a default unless there is fraud, misrepresentation or bad faith. The loan fee continued at 1 percent for vendee loans and section 3712 manufactured home loan borrowers, who do not receive the benefit of the new approach on liability. Loan assumers continue to pay 0.5 percent, and do not receive the new liability protection.

The 90 percent limit on "cash-out" refinancing loans will not apply to a loan made to refinance a construction loan, an installment sales contract, or a loan assumed by the veteran. However, these loans are limited to the lesser of reasonable value or the balance to be refinanced plus closing costs. Entitlement may be restored in cases in which a VA loan has been paid-in-full and the veteran still owns the home if the restored entitlement was to be used on a loan secured by the same property.

Additional guaranty entitlement was provided for loans over \$144,000, equal to 25 percent of the loan amount up to a maximum total guaranty of \$46,000. This applied only to loans to purchase or construct a home, farm residence or condominium.

Holders were required to notify VA if a partial payment is refused from a veteran in default. It also extended the "no-bid" formula for two years, until October 1, 1991, and excluded the cost of government borrowing from the net value formula. Provisions of 38 U.S.C. 3102 on waivers were liberalized to eliminate "material fault" and "lack of good faith" as reasons for denying a waiver, substituting "bad faith" as a reason for denial of waiver.

The Secretary of Veterans Affairs was required to conduct a study, jointly with the Department of the Interior concerning Native American veteran participation in the VA home loan program and report to Congress by June 1, 1990. Native Americans were defined to include Indians, and "Natives" of Alaska, Hawaii, and the Pacific Islands.

The Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 provided for a temporary increase in the funding fee for VA-guaranteed home loans. For the period beginning November 1, 1990 and ending October 1, 1991, the funding fee amounts are 1.875 percent for loans with no downpayment or a downpayment of less than 5 percent; 1.375 percent for loans with a downpayment of at least 5 percent but less than 10 percent; and 1.125 percent for loans with a downpayment of at least 10 percent.

Public Law 101-508 also authorized a new optional procedure for manufactured home loan claims. Under the new procedures, holders may file their claims immediately upon receipt of VA's resale price or liquidation appraisal. They would then bear the risk of any future loss in value of the

property due to depreciation or other factors. Under prior law, VA could not pay the claim until after the loan security was liquidated.

Public Law 102-23 extended benefits to veterans of the Persian Gulf War and established August 2, 1990 as the beginning date for purposes of determining VA benefits eligibility. The ending date of the war period will be established by Presidential proclamation or by Congress. VA home loan eligibility based on Persian Gulf War service requires at least 90 days of service, any part of which was during the Persian Gulf War. The veteran must also satisfy the minimum service requirements of 38 U.S.C. 3103A, i.e., 2 years active duty or the full period for which ordered to active duty, unless discharged early by reason of hardship or service connected disability or pursuant to 10 USC 1171. There should be no instances of an activated reservist who completes at least 90 days of active duty being ineligible for home loan benefits for failure to complete the full period for which called to active duty. The activation orders for the Persian Gulf War were written in such a way that the deactivation of an individual prior to completion of the maximum period specified in his/her orders would not be seen as failure to complete the full period for which called to active duty.

Public Law 102-54, approved June 13, 1991, extended the maximum guaranty of \$46,000 to VA rate reduction loans. It extended the no-bid formula and the lender appraisal processing program (LAPP) to December 31, 1992. It added a new section 1835 (since renumbered 3735) to title 38, U.S. Code to provide housing assistance to homeless veterans, similar to the provisions originally set forth in Public Law 100-198. The new homeless authority was extended through September 30, 1993. Public Law 102-54 required VA to sell all loans with recourse, unless the loans are sold at par or better. It also established a one year time limit to request waiver of a home loan debt. The time runs from the date VA notifies the veteran of the debt and VA must advise the veteran on how to apply for a waiver.

Public Law 102-291, approved May 20, 1992, authorized VA to guarantee the timely payment of principal and interest on REMIC pass-through certificates backed by vendee loans issued or approved before December 31, 1992. Prior to the enactment of Public Law 102-291, VA guaranteed the vendee loans themselves and not the certificates. The lack of a guaranty promise running directly from VA to the investor meant that VA did not get the best price when it securitized its loans.

Public Law 102-547, Veterans Home Loan Program Amendments of 1992, signed by the President on October 28, 1992, brought the most significant changes to the Loan Guaranty program in more than 20 years. It authorized a 3-year test during which the Secretary has the option of setting the maximum interest rate that may be charged on a VA-guaranteed loan or to allow the rate to be negotiated between the veteran and the lender and the payment of discount points to be negotiated between veteran, seller and lender. The Secretary exercised the option to allow the rate to be negotiated. The new law also authorized a 3-year test of a VA-guaranteed Adjustable Rate Mortgage (ARM) which is modeled after the FHA ARM.

The law established a new category of veteran eligible for VA home loan benefits. Individuals who are not otherwise eligible and who have completed a total of at least 6 years of honorable service in the Selected Reserves (including National Guard) are eligible for VA home loans. Reserves must pay a 3/4% higher funding fee than other veterans and their eligibility expires October 28, 1999.

The law also required VA to carry out a program to demonstrate the feasibility of guaranteeing mortgages for the acquisition of an existing dwelling and the cost of making energy efficient improvements to the dwelling or for refinancing and adding energy efficient improvements to a dwelling owned and occupied by a veteran. It authorized an addition to the loan for the cost of the energy efficient improvements up to \$3,000; or \$6,000 if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

The funding fee on IRRRLs (Interest Rate Reduction Refinancing Loans) was reduced to .5% for all such loans, including those made to Reservists. The law also provided for a minimum guaranty of 25% on all IRRRLs, regardless of the amount of guaranty on the original loan.

Public Law 102-547 also authorized a pilot program to provide VA direct loans to Native American veterans living on trust lands, who have historically had difficulty in achieving homeownership. These loans are limited to \$80,000, except in areas that the Secretary has determined are high cost.

Public Law 102-547 also extended the Lender Appraisal Processing Program (LAPP) and the Enhanced Loan Asset Sale Authority provided by Public Law 102-291 until December 31, 1995.

Public Law 103-66, the Omnibus Budget Reconciliation Act of 1993, increased the funding fees charged on VA loans by 0.75 percent of the loan amount. A new fee of 3 percent of the loan amount was established for multiple users of the program except those who make a downpayment of at least 5 percent. The new fees are effective through September 30, 1998. The fee increases do not apply to interest rate reduction refinancing loans, for which the fee is 0.50 percent of the loan amount. This law also amended the net value formula to include losses sustained on the resale of VA acquired properties.

Public Law 103-353, approved October 13, 1994, increased the maximum home loan guaranty entitlement amount from \$46,000 to \$50,750. The new maximum affects only those loans above \$144,000 to purchase or construct a home, or refinance an existing VA guaranteed loan to a lower interest rate. The basic entitlement amount remains at \$36,000 for all other loans.

Public Law 103-446, approved November 2, 1994, made a number of changes. It allows VA to restore entitlement, on a one-time basis, for a veteran who has paid off the prior loan but has not disposed of the property. It extends loan guaranty eligibility to Reservists discharged because of a service-connected disability, and to surviving spouses of Reservists who died in service or as a result of a service-connected disability. It also amended the 24 month minimum active duty service requirement for loan guaranty benefits, by creating a limited exception for persons who failed to meet the 24 month requirement because of a reduction in force.

The law also made a number of technical adjustments. It allows veterans to refinance adjustable rate mortgages to fixed rate mortgages in cases where the fixed rate is higher than the current ARM rate. It allows interest rate reduction refinancing loans to include funds for energy efficiency improvements. It repeals the requirement for statements from state and local officials concerning the feasibility of community water and sewage systems. It eliminates the requirement for manufactured home inspections.

It authorizes VA to accept conveyance of a foreclosed property in cases where the holder's bid at foreclosure exceed the specified amount.

Public Law 104-106, approved February 10, 1996, authorized VA and the Department of Defense (DOD) to conduct a pilot program to assist military personnel obtain VA home loans.

Under the pilot program, certain military personnel stationed at bases where the supply of suitable housing is inadequate could qualify for VA home loans with a special interest rate buy-down provision. The funds for the buy-down are to be provided by DOD, and DOD would be responsible for designating specific housing shortage areas where these special loans would be available. VA's responsibility under the pilot program is to develop underwriting standards for the loans and to work with mortgage lenders to implement the program.

Public Law 104-110, approved February 13, 1996, extended and made permanent VA's authority for loans with negotiated interest rates, energy efficient mortgages, and the lender appraisal processing program. VA's authority to enter into agreements for housing assistance for homeless veterans and for certificate guaranty on loan sales were also extended, for 2 years and 1 year, respectively. VA's authority for adjustable rate mortgages, which expired on September 30, 1995, was not extended.

Public Law 104-275, the Veterans Benefits Improvements Act of 1996, was signed by the President on October 9, 1996. This act made three changes in the VA Loan Guaranty Program. First, VA's authority to issue Vinnie Mac securities was extended for 1 year, through December 31, 1997. Second, effective January 1, 1997, the term "Vietnam Era" has been redefined for veterans who served in the Republic of Vietnam. For these veterans, the "Vietnam Era" now begins on February 28, 1961, and ends on May 7, 1975. For veterans who did not serve in the Republic of Vietnam, the "Vietnam Era" begins on August 5, 1964, and ends on May 7, 1975. Any veteran who served on active duty at any time during the Vietnam Era, and whose total service was for 90 days or more, is eligible for VA home loan benefits. This means that for a veteran whose only service was before August 5, 1964 and who did not serve in the Republic of Vietnam, 181 days of continuous active duty service is required. Third, VA was authorized to make direct loans to Native American veterans for

the purpose of reducing the interest rate on loans previously obtained under the Native American Veteran Direct Loan Program.

On August 5, 1997, the President signed Public Law 105-33, "The Balanced Budget Act of 1997". This bill extended the funding fee surcharge of 0.75 percent, the 3 percent fee for second time use, and the no-bid formula through October 1, 2002. It increased from 1 percent to 2.25 percent the fee paid by purchasers of VA acquired properties who obtain vendee loans. It extends through December 31, 2002, VA's authority to guarantee REMIC securities. It also permits VA to collect debts established against veterans as a result of default on a VA home loan by offsetting, for example, federal salary payments or tax refunds. VA must provide the veteran with notice of the right to request a waiver and to appeal denial of a waiver or release of liability. Previously, these offsets could only be taken with the veteran's written consent, or if there was a judicial determination of the debt.

On November 21, 1997, President Clinton signed Public Law 105-114, which extended the Native American Veteran Housing Loan Pilot Program until December 31, 2001.

On November 11, 1998, Public Law 105-368 extended the home loan eligibility of individuals who are not otherwise eligible and who have completed a total of at least 6 years of honorable service in the Selected Reserves to September 30, 2003.

The Veterans Millennium Health Care and Benefits Act of 1999, Public Law 106-117 authorized VA to restore the home loan eligibility of surviving spouses who lost such eligibility as a result of remarriage if the remarriage has been terminated by death or divorce. The home loan eligibility of individuals who are not otherwise eligible and who have completed a total of at least 6 years of honorable service in the Selected Reserves was extended to September 30, 2007. VA's authority to sell or lease acquired properties to organizations to provide housing for homeless veterans was extended to December 31, 2003.

Public Law 106-419, the Veterans Benefits and Health Care Improvement Act of 2000, approved November 1, 2000, extended 3 legislative authorities

that were scheduled to expire in 2002 until 2008. They are: The enhanced loan asset sale authority, the ¾ percent higher funding fee provision, and the “no-bid” formula. The bill also contained a provision authorizing VA to pay up to the full amount of an SAH grant in cases involving joint ownership of the specially adapted home by someone other than the veteran’s spouse.

The Veterans Education and Benefits Expansion Act of 2001, Public Law 107-103, made a number of changes to the Loan Guaranty Program.

First, it increases the maximum guaranty amount from \$50,750 to \$60,000 for certain loans that exceed \$144,000. Eligible veterans can now obtain no down-payment loans for up to \$240,000 to purchase a home or condominium.

It also increases the maximum grant for specially adapted housing for severely disabled veterans from \$43,000 to \$48,000, and increases the maximum housing adaptations grant from \$8,250 to \$9,250.

It extends the Native American Veteran Direct Loan Program for 4 years, to December 31, 2005. It also eliminates the requirement for VA to have a separate Memorandum of Understanding (MOU) with tribal authorities if another federal agency has an MOU that substantially complies with VA's requirement, and it extends the reporting period for the program.

It modifies the loan assumption notice requirement to require that the notice appear conspicuously on at least one of the security instruments for the loan. The notice must read substantially as follows: “This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent”.

Finally, the new law extends the sunset dates of certain legislative authorities as follows:

The home loan eligibility of veterans who served in the Reserves or National Guard for six years is extended to September 30, 2009.

VA’s enhanced loan sale authority is extended to December 31, 2011.

The funding fee requirements are extended to October 1, 2011.

The formula governing whether a property that secures a defaulted loan can be acquired by VA, referred to as the "Net Value" formula is extended to October 1, 2011.

The Veterans Benefits Act of 2002, Public Law 107-330, increased the fee for loan assumptions for a limited time, through September 30, 2003. It also authorized hybrid adjustable rate mortgages for a period of 2 years, beginning October 1, 2003.

The Veterans Benefits Act of 2003, Public Law 108-183, approved December 16, 2003, increases the Specially Adapted Housing Grant from \$48,000 to \$50,000, and increases the Housing Adaptations grant from \$9,250 to \$10,000. It also makes permanent VA's authority to guarantee home loans for members of the Selected Reserve.

It adjusts the VA loan guaranty funding fees. The revised fee for an initial loan with no down payment, closed on or after January 1, 2004 through September 30, 2004, is 2.20 percent for an active duty veteran, and 2.40 percent for a reservist. The revised fee for an initial loan with no down payment, closed on or after October 1, 2004 through September 30, 2011, is 2.15 percent for an active duty veteran, and 2.40 percent for a reservist. The fee for a subsequent loan, with no down payment, increases to 3.3 percent for loans closed on or after January 1, 2004 through September 30, 2011. The funding fee for an initial loan with a 5 percent down payment closed before October 1, 2011 is 1.5 percent for an active duty veteran, and 1.75 percent for a reservist. The funding fee for an initial loan with a 10 percent down payment closed before October 1, 2011, is 1.25 percent for an active duty veteran, and 1.50 percent for a reservist.

Public Law 108-183 also requires VA to sell between 50 percent and 85 percent of acquired properties with vendee loans. This provision will expire on September 30, 2013. It extends VA liquidation sales procedures set forth in 38 USC 3732 (the no-bid formula), currently scheduled to expire on October 1, 2011, for 1 year, so that they will now expire on October 1, 2012.

The Veterans Benefits Improvement Act of 2004, Public Law 108-454, approved December 10, 2004, extends the full \$50,000 specially adapted housing grant to veterans who have lost the use of both upper extremities

such as to preclude use of the arms at or above the elbows. Previously, such veterans were only eligible for the \$10,000 special housing adaptations grant.

It increases the maximum VA loan guaranty amount for loans over \$144,000 by indexing the maximum guaranty amount to 25 percent of the conventional conforming loan limit. This amount would automatically adjust every year, along with the annual conforming loan limit adjustment. Fannie Mae and Freddie Mac have announced that effective January 1, 2005, the conforming limit will be \$359,650. Consequently, during 2005, VA no downpayment loans will be available for up to \$359,650 (the maximum guaranty would be \$89,913, which is 25% of \$359,650).

The law also authorizes VA to guarantee traditional adjustable rate mortgages, i.e., those that adjust every year, through the year 2008. VA previously had authority for a 3-year pilot that ran from 1992 through 1995. Congress declined to extend this authority at that time due to the fact that the default rate on such arms was higher than for traditional fixed-rate mortgages.

The law also amends the hybrid ARM authority, and extends it through the year 2008. There would be a 1 percent limit on the initial interest rate adjustment for hybrid ARMs with an initial fixed rate period of less than 5 years. For hybrid ARMs with an initial fixed rate period of 5 years or more, the maximum initial interest rate adjustment would be such percentage as determined by the Secretary. After the initial adjustment, subsequent adjustments are limited to 1 percent. The statutory life of loan maximum increase of 5 percent in the interest rate is eliminated and replaced with a maximum number of percentage points as prescribed by the Secretary.

This law also exempts veterans from the funding fee if they are rated eligible for compensation based on pre-discharge eligibility examinations, without regard to the date compensation will start. Currently, a veteran must actually be receiving compensation to be exempt from payment of the funding fee.

It also extends authority for Native American Direct Loans through the year 2008.

On June 15, 2006, the President signed P. L. 109-233, the Veterans Housing Opportunity and Benefits Act of 2006.

The law authorizes VA to provide Specially Adapted Housing (SAH) assistance to veterans who are temporarily residing in a home owned by a family member. This assistance would be in the form of a grant to assist the veteran in adapting the family member's home to meet his or her special needs. Those eligible for the grant would be permitted to use up to \$14,000 of the maximum grant amount for a 2101(a) grant or up to \$2,000 of the maximum grant amount for a 2101(b) grant. This new provision does not authorize VA to make such grants available to assist active duty servicemembers.

The law changes the one-time only usage of grant benefits. Although a veteran may now use his or her benefits up to a total of three times, the aggregate amount of assistance cannot exceed the maximum amounts allowable for either the 2101(a) or 2101(b) grant.

The law reestablishes VA's authority to make SAH grants (but not the temporary grants referred to above) to active duty service personnel awaiting disability discharge.

No temporary grant assistance may be provided after June 15, 2011.

The benefits administered under chapters 17, 21, and 31 of Title 38. These provisions cover assistance provided under the Home Improvement and Structural Alteration (HISA), SAH, and Independent Living (IL) benefit programs.

The law increases the funding fee from 3.3 percent to 3.35 percent for subsequent loans with less than a five percent down payment closed during Fiscal Year 2007 (October 1, 2006 – September 30, 2007).

The law removes the current one percentage point restriction to subsequent annual adjustments to interest rates on hybrid adjustable rate mortgages (HARM) with an initial fixed-period rate of 5 years or more. The Secretary now has the authority to determine annual adjustments for loans

where the initial rate is fixed for 5 or more years. Until further notice, annual adjustments may now be up to 2 percentage points.

The provisions of this Act will not affect existing HARMs. VA HARMs made prior to this Act will be subject to the terms in effect at the time they were made. For example, a HARM with an initial fixed-period rate for 5 years or more closed prior to this Act is limited to a 1 percentage point adjustment in subsequent years.

The law makes the Native American Direct Loan (NADL) program permanent.

The \$80,000 maximum loan amount is eliminated, as is the need for Secretarial determination of higher loan amounts in high cost areas. Instead, the new limit on NADLs is the same as the Federal Home Loan Mortgage Corporation (also known as "Freddie Mac") single-family conventional conforming loan limit. That limit is currently \$417,000 for loans located in the 48 contiguous States and \$625,000 for loans in Alaska, Hawaii, and the South Pacific. Increases in these loan limits will be published annually, based upon the annual adjustment in the Freddie Mac conventional conforming loan limit.

The law extends eligibility for NADL to a veteran who is not a Native American, but who is married to a Native American non-veteran. To be eligible for such a loan, the qualified non-Native American veteran and the Native American spouse must reside on trust land, and both the veteran and spouse must have a meaningful interest in the dwelling or lot.

UPDATED – 08/23/2006