

## **CHAPTER 5: HOW TO PROCESS VA LOANS AND SUBMIT THEM TO VA**

### **Overview**

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## **Topic 1: Processing Procedures**

**Change Date:** May 14, 2024

- Section a, *Order of Completion*, has been updated to add a step for submission of VA Form 26-8937, *Verification of VA Benefits*, if the Veteran indicates they have a pre-discharge disability claim pending with VA.
- Section b, *How to Obtain a Certificate of Eligibility*, has been updated to replace references to e-benefits with va.gov.
- Section f, *Requirements for Active-Duty Service members*, has been updated with information on pre-discharge claim information.
- This topic has been updated to replace references to the Regional Loan Center (RLC) with VA.

### **a. Order of Completion**

The COE must be ordered prior to requesting an appraisal. The procedures discussed in this topic must be initiated and may be completed in any feasible order, with the exception of the Certificate of Eligibility (COE), as long as they are all completed prior to loan closing. These procedures apply to both prior approval loans and loans closed automatically (except the procedure which specifically refers to prior approval loans).

To avoid delays in closing, it is recommended that the lender take the following actions in the very early stages of loan processing:

- obtain a COE, unless the loan is an Interest Rate Reduction Refinancing Loan (IRRRL),
- if the Veteran is an active-duty Service member and indicates they have a pre-discharge claim pending, complete and submit [VA Form 26-8937](#), *Verification of VA Benefits*, (see section f),
- request a VA appraisal or IRRRL case assignment in VA's web-based loan guaranty system (WebLGY), (see Chapter 10 of this handbook for the steps to request an appraisal),
- initiate the Credit Alert Verification Report System (CAIVRS) (see Chapter 4 of the Lender's Handbook) and,
- request a credit report and verifications, if required (see Chapter 4 of this handbook).

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*Topic 1: Processing Procedures, continued*

**b. How to Obtain a Certificate of Eligibility**

Verify the Veteran's or surviving spouse's eligibility for home loan benefits and amount of available entitlement by obtaining a COE in WebLGY. It is highly suggested that lenders obtain a COE online through WebLGY for the most efficient processing times. Veterans may also apply online through [www.va.gov](http://www.va.gov).

- A COE obtained by the borrower on [www.va.gov](http://www.va.gov) will be in WebLGY.
- This COE can be accessed by the lender using at the Veteran's social security number and date of birth.
- An additional or updated COE does not need to be obtained or updated unless a change needs to be made to the COE.
- Please examine and understand the conditions of the COE.
- Failure to comply with the COE conditions may result in an ineligible loan (see Chapter 2 of this handbook).

**c. Establish Reasonable Value of the Property**

After requesting an appraisal in WebLGY, the appraisal report is uploaded into WebLGY. The Staff Appraisal Reviewer (SAR) will review the appraisal and issue the Notice of Value (NOV). A copy of the NOV is available in WebLGY. The lender must obtain evidence of compliance with any NOV requirements.

**d. Determine if VA's Occupancy Requirement is Met**

Determine whether the Veteran meets VA's occupancy requirement. The loan cannot be closed as a VA loan unless the requirement is met (see Chapter 3 of this handbook for occupancy requirements).

**e. Underwrite the Loan**

Complete the procedures, verifications, and [VA Form 26-6393](#), *Loan Analysis*, described in Chapter 4 of this handbook. Compare information received from different sources and resolve any discrepancies. Examples may include, but not limited to:

- resolving differences in the number of dependents, and
- resolving credit history or employment stability/reliability discrepancies, and
- resolving the amount or status of monthly obligation(s).

The final signed Uniform Residential Loan Application (URLA), [VA Form 26-6393](#), *Loan Analysis*, and final Automated System Feedback, if applicable, should all reflect the same information.

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**f. Requirements for Active Duty Service members**

Funding Fee Exemption Status: Lenders will ask active duty Service members if they have a pre-discharge disability claim pending with VA. If the COE funding fee status shows Non-Exempt, the lender will submit VA Form 26-8937, *Verification of VA Benefits*. If a proposed or memorandum rating is not obtained and a closing takes place, the Service member is not eligible for a funding fee refund exemption and will not be entitled to a refund from VA.

VA Form 26-8937 should be uploaded to the existing COE record by completing a “New Application” under “Electronic Application” in WebLGY. When submitting the application, the form should be uploaded as the document type “Form 26-8937”.

The time required to issue a memorandum rating varies. If the Service member has any questions related to a pre-discharge claim, they should contact VA at 1-800-827-1000.

See Chapter 8 for additional information on the VA Funding Fee.

Eligibility Conditions: Ensure the Veteran, eligible as an active-duty member, is still on active duty at the time of closing if the COE indicates: “*Valid unless discharged or released subsequent to date of this certificate. A certification of continuous active duty as of the date of note is required.*” The Veteran certifies their continuous active duty service on VA Form 26-1820, *Report and Certification of Loan Disbursement*. If the lender becomes aware that the applicant is no longer on active duty, the loan may not be closed unless VA re-establishes the Veteran’s eligibility as follows:

- A Veteran released from active duty must have a DD Form 214, *Certificate of Release or Discharge from Active Duty*, with time served, Character of Service Discharge, and reason for the discharge listed. It must be uploaded into WebLGY for the issuance of a new COE.
- A Veteran released from the National Guard or Reserves must have evidence of time served and an Honorable discharge. This must be uploaded into WebLGY for the issuance of a new COE.
- If a COE was issued based upon active-duty service and the Veteran has been separated, eligibility must be re-determined based upon their length of service and character of service.

Counseling Checklist: Ensure every Service member who applies for a loan while still in service is counseled with VA Form 26-0592, *Counseling Checklist for Military Homebuyers*, as early as possible in the transaction.

The active duty Veteran’s and lender’s signature on the form signifies counseling has been completed.

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*Topic 1: Processing Procedures, continued*

**g. Obtain a Certificate of Commitment on Prior Approval Loans**

If the loan requires prior approval, upload the loan file to WebLGY for review (see Topic 3 of this chapter).

If the prior approval loan is approved by VA, a VA Certificate of Commitment will be issued by VA to the lender. Ensure compliance with any conditions listed on the Certificate of Commitment before closing the loan.

To obtain the loan guaranty certificate, the closing package must be uploaded into WebLGY, for VA's final review.

## **Topic 2: How to Submit Loan Documents to VA**

**Change Date:** May 14, 2024

- Section a has been updated to replace the reference to the Veterans Information Portal and now refers lenders to Appendix B for information on submitting documents to VA.

### **a. Where and When to Submit Documents**

Generally, lenders only need to submit documents to VA when the loan requires prior approval or VA requests copies of the origination package for a Full File Loan Review (FFLR). *Appendix B* provides process specific stacking orders and information on how a lender should submit the requested documents to VA.

### **b. VA Loan Number**

A 12-digit VA Loan Identification Number (LIN) is assigned to each loan by VA at the time the appraisal or Interest Rate Reduction Refinancing Loan (IRRRL) is requested. Use this number electronically in VA systems or where requested on VA forms and other documents. Submitting an incorrect VA loan number can delay processing of the guaranty.

### **c. Who Can Sign Documents for the Lender?**

Under certain circumstances, VA requires specific parties to execute documents. For example:

- a VA-approved credit underwriter must approve or disapprove a loan for a non-supervised automatic lender (note: the SAR designation does not automatically confer credit underwriting authority),
- an officer of the company must sign the Lender's Loan Quality Certification.

Where VA does not have a specific requirement, branch managers, employees, and agents of the lender or holder may execute VA forms in the name of, and on behalf of, the principals.

### **d. Use of Electronic Documents**

When submitting loan documents to VA, lenders may use electronic documents. Lenders must be able to provide VA's audit team members with printed, digital, or on-line access to records.

Lenders are expected to continually monitor the integrity of their electronic system to ensure consistent quality and to prevent unauthorized alternation or destruction of records.

### **Topic 3: Prior Approval Loan Procedures**

**Change Date:** May 14, 2024

- This topic has been updated to replace references to the RLC with VA.
- References to processing requirements involving a VA-appointed fiduciary have also been removed from this Topic.
- Section a, *Loans to be Submitted for Prior Approval*, has been updated to remove the prior approval requirement for loans involving a VA-appointed fiduciary, and to further clarify which types of loans are required to be submitted for prior approval.
- Section c, *How to Request Prior Approval*, which previously provided the stacking order for prior approval requests for purchase/cash-out refinance loans, has been renamed and updated to refer lenders to the updated stacking orders provided in Appendix B, Topic 2.
- Previous section e, *Documentation Required for an IRRRL Prior Approval Package*, has been removed from this Topic and moved to Appendix B Topic 2. All subsequent sections were re-lettered and references updated.
- Previous section h, *Changes Occurring After Issuance of the Certificate of Commitment*, including Tables 3, has been updated.
- Previous section i, *Conditional Certificates of Commitment*, Table 4, has been updated to remove the conditional commitment condition for loans to be made to a Veteran and fiancé(e) who intend to marry prior to closing and who will hold title as Veteran and spouse.
- Previous section k, *How to Report Loan Closing and Request Guaranty*, which previously provided the stacking order for reporting a closed prior approval loan, has been updated to refer lenders to the updated stacking orders provided in Appendix B.
- Previous section k, *How to Report Loan Closing and Request Guaranty*, has been updated with additional information related to the late reporting certification required if the loan is not reported in a timely manner.
- Minor grammatical changes were also made throughout the topic.

#### **a. Loans to be Submitted for Prior Approval**

Lenders without automatic authority are strongly encouraged to enter into a sponsor/agent relationship with a VA-approved automatic lender to expedite VA loan processing and underwriting. If a lender does not have a sponsor, then they must submit an application to VA for prior approval lending. Those without sponsors or automatic authority must upload all loans into WebLGY for prior approval, except IRRRLs made to refinance loans that are not delinquent (see Chapter 1 of this handbook).

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*Topic 3: Prior Approval Loan Procedures, continued*

**a. Loans to be Submitted for Prior Approval, continued**

Lenders must upload all prior approval documents into WebLGY, for VA review **prior** to closing the loan (see Appendix B Topic 2 for the prior approval stacking order). The loan may not close until VA issues a Certificate of Commitment.

All lenders, whether or not they have automatic authority, must submit the following types of loans to VA for prior approval:

- Joint loans, to a Veteran and one or more non-spouse, non-Veterans (see Chapter 7)
- Joint loans, to a Veteran and one or more non-spouse Veterans who will not be using entitlement (see Chapter 7)
- Loans to Veterans in receipt of VA non-service-connected pension. This is not the same as VA service-connected disability compensation.
- IRRRLs made to refinance delinquent loans (See Chapter 6 of this handbook)
- Manufactured home loans (home is not titled as real-estate)
- Unsecured loans or loans not secured by a first lien; and
- Supplemental loans

**Note:** COEs may indicate required submission of [VA Form 26-8937, Verification of VA Benefits](#), if VA is unable to issue the COE with appropriate conditions. In these cases, the form should be submitted prior to close as it may indicate the loan requires prior approval.

Lenders are not required to obtain prior approval for a loan where the application was taken for a Veteran and fiancé(e) who will marry **prior** to loan closing and who will hold title jointly as Veteran and spouse. A copy of the borrowers' marriage certificate or other proof of marriage showing the marriage preceded loan closing must be retained in the loan file. A marriage license is inadequate. Prior approval **is** required if the marriage will not take place prior to loan closing.

Lenders with automatic authority may also elect to submit a loan (of a type not on the above list) to VA for prior approval when issues or circumstances cannot be resolved by the lender's own underwriting staff.

This provision **may not** be used to shift the burden of loan denial to VA. Additionally, VA cannot address overlays established by a company or investor and the loan should not be submitted as a prior approval for the lender to overcome any company or investor requirements.

Before submitting such a loan, the underwriter **must** first attempt to contact VA to discuss the circumstances with a Loan Specialist. While VA cannot make the final underwriting determination without reviewing the loan, VA can discuss VA guidelines to assist the underwriter in making a determination.

If, after contacting VA, the underwriter is unable to make a determination, the loan may be submitted for prior approval. The submission **must** include a cover letter from the underwriter that states the reason(s) for the prior approval submission, explains the unique circumstances, and provides the underwriter's phone number and e-mail address.

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*Topic 3: Prior Approval Loan Procedures, continued*

**b. Before Requesting Prior Approval**

The lender must perform the following steps prior to submitting a loan package for prior approval:

- obtain a COE, and, if the Veteran is an active-duty Service member who indicates they have a pre-discharge claim pending, complete and submit [VA Form 26-8937, Verification of VA Benefits](#), (see Topic 1, section f),
- establish the reasonable value of the property with the issuance of an NOV,
- underwrite the loan and complete [VA Form 26-6393, Loan Analysis](#), and
- ensure Service members receive counseling using [VA Form 26-0592, Counseling Checklist for Military Homebuyers](#).

The prior approval loan review will be suspended and processing will be delayed if all documents are not submitted with the original upload.

**c. How to Request Prior Approval**

The stacking order for requesting prior approval and reporting loan closing are provided in Appendix B, Topic 2.

The files should be uploaded as a single-file Portable Document Format (PDF) into VA's electronic loan system (WebLGY or subsequent system) to the correspondence section of the loan record as a 'Prior Approval Loan Package'. If the file size exceeds VA's limit, it is permissible to split the file, but it should still follow the stacking order.

Failure to provide necessary documents or conditions may result in delays in issuing the Certificate of Commitment.

A user's guide for uploading prior approval loans is available online at:

[https://www.benefits.va.gov/HOMELOANS/documents/docs/prior\\_approval\\_LP\\_lenders.pdf](https://www.benefits.va.gov/HOMELOANS/documents/docs/prior_approval_LP_lenders.pdf)

**d. Prior Approval on IRRRLs**

An IRRRL made to refinance a loan that will be 30 or more days past due as of the date of closing, must be submitted for prior approval. The lender must first obtain sufficient information and perform sufficient analysis to determine that:

- the cause of the delinquency has been resolved, and
- the Veteran is able to make the proposed loan payments.

The stacking order for requesting prior approval and reporting loan closing are provided in Appendix B, Topic 2.

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**e. VA Processing of a Prior Approval Application**

VA will review the documents submitted and complete one of the following:

- suspend processing and request additional information from the lender, or
- send a notice of denial to the lender and borrower, or
- issue VA's certificate of commitment to the lender, which is evidence of VA's approval of the loan to close and willingness to guaranty the loan.

Loans submitted on the prior approval basis have a 10-business day timeliness requirement by VA.

The processing time may be extended for loans involving the receipt of VA pension income. The VA Pension Management Center may need to complete a review of a loan file in addition to the Loan Guaranty review.

**f. Certificate of Commitment**

VA's certificate of commitment must be obtained **prior** to closing and is the lender's evidence of VA's willingness to guaranty the loan. The lender is subsequently entitled to evidence of guaranty if:

- The closed loan is identical in all respects to that submitted to VA on the URLA and described on the certificate of commitment (or, if not identical, any required VA approval of changes was obtained prior to closing), and
- The lender has complied with all applicable provisions of the law and loan guaranty regulations in making the loan. Additionally, all conditions of the certificate of commitment must be met.

If, at any time prior to closing, the lender or VA has reason to doubt the continued qualification of the loan, the lender will delay closing until all facts are determined and reviewed again by VA.

VA may cancel a commitment if the validity period of the certificate of commitment has expired (after 180 days), and there is no reasonable expectation that the loan will be reported for guaranty.

A commitment may be extended under certain circumstances. Contact VA for a review of the prior approval commitment.

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*Topic 3: Prior Approval Loan Procedures, continued*

**g. Changes Occurring After Issuance of the Certificate of Commitment**

**Table 1: Changes Occurring After Issuance of the Certificate of Commitment**

<b>If...</b>	<b>Then...</b>
An increase in the amount of down payment decreases the loan amount (with or without a reduction in the term of the loan) and there is <b>no</b> increase in the monthly mortgage payments,	VA approval <b>is not</b> needed. Include an explanation of the change with the closing package.
The maturity of the loan is extended, but does not exceed the maximum of 30 years and 32 days or the remaining economic life of the property as provided by the NOV, and there is <b>no</b> increase in the monthly mortgage payments,	VA approval <b>is not</b> needed. Include an explanation of the change with the closing package.
The maturity of the loan is decreased, and there <b>is</b> an increase in the monthly mortgage payments,	VA approval <b>is</b> needed. Upload a new Loan Estimate (LE), URLA signed and dated by the applicant, and an updated VA Loan Analysis, to WebLGY.
The loan amount is increased to cover the cost of energy efficiency improvements up to \$6,000,	VA approval <b>is</b> needed. See Chapter 7 of the Lender's Handbook for special underwriting requirements and documentation required with the updated prior approval package. A revised loan analysis must be provided to show the borrower still qualifies with the higher loan amount and payment.
Any increase in the amount of discount points to be paid by the applicant above the points indicated on the certificate of commitment,	VA approval <b>is</b> needed. Include with the updated prior approval package: <ul style="list-style-type: none"> <li>• An explanation of the change,</li> <li>• The URLA with changes initialed and dated by the applicant, and</li> </ul> If previously verified assets are not sufficient to cover the additional points, verification of sufficient additional assets.

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*Topic 3: Prior Approval Loan Procedures, continued***g. Changes Occurring After Issuance of the Certificate of Commitment, continued****Table 1: Changes Occurring After Issuance of the Certificate of Commitment, continued**

<b>If...</b>	<b>Then...</b>
The loan is to be closed at an interest rate more than 0.25 percent greater than the rate indicated on the certificate of commitment,	VA approval <b>is</b> needed. Upload a new LE, URLA signed and dated by the applicant, and an updated VA Loan Analysis, to WebLGY.
A borrower changes jobs or suffers a reduction in income.	VA approval <b>is</b> needed. Upload an updated VA Loan Analysis, income verification documentation, and an updated URLA to WebLGY
There is an increase in liabilities that reduces the residual income by 5 percent or more, or increases the debt-to-income (DTI) ratio by 2 percent, or increases the DTI to a percentage above 45%.	VA approval <b>is</b> needed. Upload an updated VA Loan Analysis, credit documentation, and an updated URLA to WebLGY.

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*Topic 3: Prior Approval Loan Procedures, continued*

**h. Conditional Certificates of Commitment**

There are circumstances when VA issues a prior approval commitment with special conditions. The table below lists circumstances and conditions that warrant special instructions and documentation before closing a loan that has been underwritten by VA.

**Table 2: Conditional Certificates of Commitment**

<b>Case</b>	<b>Condition/Notation on Certificate</b>
Loan is to the spouse of a serviceperson missing in action or prisoner of war (MIA/POW)	Prior to closing the subject loan, the lender should obtain certification from the borrower that official notice of any change in the Service member's status has not been received and that the applicant is still the spouse of the Service member. See Chapter 2 for required documentation.
Loan is to an eligible surviving spouse of a deceased Veteran.	"Conditioned on certification of status as a surviving spouse." <i>What this means:</i> Conditioned on the borrower's certification that their status as an eligible surviving spouse has not changed since the COE was issued. See Chapter 2 for required documentation.
Loan is to an active-duty service person who has not been discharged and must certify to continuous active duty.	Certification of active-duty status as of date of note required. To ensure compliance, the active-duty Service member should check the active duty box in Section III, Veteran's Certifications, on <a href="#">VA Form 26-1820, Report and Certification of Loan Disbursement</a> . Ensure that the Veteran signs the form on the date of closing.
Loan involves use of an attorney-in-fact.	"Conditioned on proof Veteran was alive and not MIA." <i>What this means:</i> No evidence of guaranty with respect to the loan to which this commitment relates will be issued by the Secretary unless the lender makes the certification specified by the Department of Veterans Affairs at the time the lender requests a certificate of guaranty to the effect that the Veteran was alive and, if the Veteran is on active military duty, not in a "missing in action" status on the date the note and security instruments were executed on the Veteran's behalf by the attorney-in-fact.

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*Topic 3: Prior Approval Loan Procedures, continued***h. Conditional Certificates of Commitment, continued****Table 2: Conditional Certificates of Commitment, continued**

<b>Case</b>	<b>Condition/Notation on Certificate</b>
Veteran intends to sell the property on which he/she has an existing VA loan prior to closing on the new VA loan, in order to have entitlement restored	“Conditioned on restoration of entitlement.” <i>What this means:</i> This commitment is conditioned upon submission of evidence of disposal of the property which the Veteran now owns and previously purchased using VA entitlement and evidence that the loan has been paid in full or that an eligible Veteran has substituted their entitlement for that used by the original Veteran.
Veteran intends to sell property now owned in order to have sufficient income, eligibility and/or assets to qualify for the loan	“Commitment conditioned on disposal of the property.” <i>What this means:</i> This commitment is conditioned upon the completion of the sale of residential real property now owned by the Veteran, as proposed in the loan application.
Notice of Value (NOV) conditions that were not satisfied prior to the commitment	The commitment is conditioned upon the completion and all required NOV conditions.

Failure to document these conditions with the closing package can result in a delay of the guaranty, affect the percentage of guaranty, and/or affect the ability of VA to issue the Loan Guaranty Certificate (LGC).

**i. Before Closing a Prior Approval Loan**

Complete all applicable procedures in Topics 1 and 2 of this chapter.

**j. How to Report Loan Closing and Request Guaranty**

A loan must be reported to VA within 60 calendar days of closing. A lender that fails to report the loan within 60 calendar days of closing must provide a written explanation signed by an officer of the company that includes the following:

- The reason for the delay in reporting the loan for guaranty, and
- Certification that the loan is not 30 or more days past due, and
- Certification that the loan otherwise conforms with standards established under chapter 37 of Title 38 U.S.C. and 38 C.F.R. part 36.

The stacking order for reporting loan closing is provided in Appendix B, Topic 2.

The file should be uploaded as a single-file Portable Document Format (PDF) into VA’s electronic loan system (WebLGY or subsequent system) to the correspondence section of the loan record as a ‘Prior Approval Loan Package’. If the file size exceeds VA’s limit, it is permissible to split the file, but it should still follow the stacking order.

Failure to provide any of the necessary documents or conditions can result in a delaying of issuing the LGC, affect the percentage of guaranty, and/or affect the ability to issue the LGC.

## **Topic 4: Automatically Closed Loan Procedures**

**Change Date:** May 14, 2024

- This topic has been edited to make minor grammatical changes.
- Section a, *How to Request Guaranty*, has been updated with additional information related to the late reporting certification required if the loan is not reported in a timely manner.
- Section b, *Documents Required if the Lender is Unable to Obtain an Electronic LGC*, has been updated to remove the stacking order for manual guaranty requests and to direct the lender to the updated stacking order in Appendix B, Topic 1.
- Section c, *FFLR Procedures*, has been updated to remove the stacking orders for VA FFLR requests and to direct the lender to the updated stacking orders in Appendix B.

### **a. How to Request Guaranty**

The LGC is the lender's evidence that VA has guaranteed the loan. See Chapter 3 of this handbook for an explanation of what evidence of guaranty means to the lender.

Loans must be reported to VA within 60 calendar days of closing<sup>1</sup> except construction and alteration/repair loans which must be reported within 60 calendar days of completion of the construction or improvements in accordance with the plans and specifications as evidenced by the post construction inspection report. A lender that fails to report the loan in a timely manner must provide a written explanation signed by an officer of the company that includes the following:

- The reason for the delay in reporting the loan for guaranty, and
- Certification that the loan is not 30 or more days past due, and
- Certification that the loan otherwise conforms with standards established under chapter 37 of Title 38 U.S.C. and 38 C.F.R. part 36.

Note: failure to report a loan for guaranty in a timely manner may result in the automatic selection of the loan for VA FFLR.

Lenders must use WebLGY to obtain electronic LGCs for loans closed on the automatic basis. Exceptions to an automatically issued LGC in WebLGY include, but are not limited to:

- Loans that were underwritten as a prior approval and VA issued a certificate of commitment in WebLGY, and
- Veteran/Veteran joint loans where two or more Veterans are splitting entitlement.

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<sup>1</sup> 38 C.F.R. § 36.4303(a)

*Topic 4: Automatically Closed Loan Procedures, continued*

**b. Documents Required if the Lender is Unable to Obtain an Electronic LGC**

If a lender is unable to obtain an electronic LGC, the lender may request VA's assistance by uploading a manual guaranty package to the loan record in WebLGY.

The stacking order for manual guaranty requests is provided in Appendix B, Topic 1.

The file should be uploaded as a single-file PDF into VA's electronic loan system (WebLGY or subsequent system) to the correspondence section of the loan record as a 'Prior Approval Loan Package'. If the file size exceeds VA's limit, it is permissible to split the file, but it should still follow the stacking order.

VA will then issue the LGC or notify the lender of additional information needed for LGC issuance.

**c. FFLR Procedures**

VA requires lenders to maintain loan origination records and make them available to VA for oversight and audit purposes<sup>2</sup>.

Lenders will be notified, either immediately by WebLGY or in writing by VA offices, when a loan has been selected for FFLR. Lenders must upload the complete loan file in the proper stacking order to WebLGY within 15-calendar days of receiving notification from VA.

The loan origination file should be uploaded as a single-file PDF into VA's electronic loan system (WebLGY or subsequent system). If the file size exceeds VA's limit, it is permissible to split the file, but it should still follow the stacking order.

The Uniform Loan Application Dataset (ULAD) and Uniform Closing Dataset (UCD) are to be uploaded as separate files, in ".xml" format only.

The stacking order for FFLR of Purchase and Cash-Out Refinances is provided in Appendix B, Topic 3.

The stacking order for FFLR of IRRRLs is provided in Appendix B, Topic 4.

If VA finds significant deficiencies in a loan submission, the lender will be notified.

Lenders must upload a response to WebLGY within 30-calendar days of receipt of any deficiency letter requesting clarification or additional documentation.

Failure to respond to VA's requests for additional documentation can lead to non-compliance with VA guidelines which can affect a lender's ability to maintain automatic authority.

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<sup>2</sup> 38 CFR § 36.4333



## **Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan**

**Change Date:** April 1, 2019

- This chapter has been revised in its entirety.

### **a. General Information**

If you are not the loan servicer or holder of the current VA loan, please refer the borrower or purchaser to the servicer or holder of the current VA loan for processing. Assumptions can only be processed and closed by loan holders and services with VA automatic authority that are holding or servicing the current VA loan.

Loan holders or servicers holding the loan without VA automatic authority that are holding or servicing the current VA loan, may submit a prior approval package to the VA RLC of jurisdiction of where the property is located. See Topic 1 of this chapter.

A VA assumption is also considered a Release of Liability (ROL).

Properties that are security for VA-guaranteed loans may be disposed or transferred even though the loans are not paid in full. Veterans who dispose or transfer their properties under these conditions remain liable to VA for any loss that may occur as a result of a future default and subsequent claim payment, unless the property is transferred to a creditworthy purchaser who agrees to assume the payment obligation. The servicer initially determines the purchaser's creditworthiness.

Any purchaser may qualify to assume a VA loan; however, for a Veteran's entitlement to be restored, a Veteran purchaser with sufficient entitlement must complete a Substitution of Entitlement (SOE) when the ROL is closed.

The Veteran's entitlement is not restored unless the Veteran purchaser, in addition to assuming the payment obligation, also agrees and is eligible to substitute their entitlement for the Veteran seller's entitlement. It is important for the servicer as soon as possible in the assumption process to obtain COEs for both the Veteran assumer and Veteran seller to determine if there is sufficient entitlement in which to substitute. See chapter 3 of this handbook.

Unless the ROL is an unrestricted transfer, a closing disclosure is required.

An ROL or SOE does not affect the original issuance of the LGC.

### **b. Who Can Process Loan Assumptions?**

While procedures for processing requests for assumption approvals previously depended on the date of loan (commitment made on or after March 1, 1988), the VA Loan Electronic Reporting Interface (VALERI) regulations authorize loan holders or servicers with automatic authority that are holding or servicing the current VA loan to be transferred to determine creditworthiness on all assumption approval requests processed by their servicers.

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**c. Servicers with Automatic Authority**

Servicers with automatic authority are authorized to process and determine creditworthiness on assumption approval requests on behalf of VA. Servicers must follow VA underwriting guidelines (see chapter 4 of this handbook) when processing and determining creditworthiness on these cases.

Servicers must notify VA electronically of authorized ownership transfers and approved ROLs in VALERI. Additional information on the reporting process is available online at <http://www.benefits.va.gov/homeloans/valeri.asp>.

An underwriting and closing package must be uploaded into WebLGY, for the existing VA loan number.

**d. Servicers without Automatic Authority**

Servicers without automatic authority that are servicing loans for holders with automatic authority must advise the holders of any assumption approval requests, and the holders will be responsible for determining creditworthiness.

When neither the servicer nor the holder has automatic authority, the servicer must develop a complete credit package and submit it, along with a copy of the purchase contract and the status of the loan to the Loan Production section at the VA RLC where the property is located.

The package should contain a cover letter indicating prior approval underwriting is required as both the servicer and the holder do not have VA automatic authority.

See Topic 4, subsection c, of this chapter for the stacking order.

**e. Transfers of Ownership on Properties with Loan Commitments after March 1, 1988**

Transfers of ownership on properties securing loans for which commitments were made on or after March 1, 1988, must have the prior approval of the loan holder or its authorized servicing agent if either of them have automatic authority.

If neither the holder nor the servicer has automatic authority, the servicer must submit a credit package to VA for underwriting.

A seller must apply for approval of the transfer prior to completing the sale.

Servicers and holders with automatic authority must examine the application to assess compliance with the provisions of [38 U.S.C. 3714](#). VA will make the determination in a case where neither the servicer nor the holder has automatic authority, following receipt of a complete application package from the servicer or holder.

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**f. Approval Requirements**

To approve the transfer of ownership:

- the loan must be current or will be brought current at the closing of the sales transaction,
- the prospective purchaser of the property is creditworthy, as determined in accordance with 38 C.F.R. 36.4340 and Chapter 4 of the Lender's Handbook, and
- the prospective purchaser has agreed to assume all of the loan obligations, including the obligation to indemnify VA if a claim is paid.

A processing fee may be collected in advance, including a reasonable estimate for the cost of the credit report. The maximum fee for processing a request for assumption approval and changing the loan records is the lesser of:

- automatic authority – \$300 plus the actual cost of a credit report; or
- no automatic authority – \$250 plus the actual cost of a credit report; or
- any maximum prescribed by applicable state law.

VA does not specifically regulate when the processing fee may be assessed. However, when the processing fee is collected prior to signing the sales contract, the portion of the fee attributable to changing the servicer's records (usually \$50) must be returned to the seller if the application is denied or the process is not completed. Therefore, VA recommends that the processing charge accompany the complete package.

**g. Processing Time Guidelines**

**Automatic Authority:** Servicers or holders with automatic authority must complete the underwriting and notify the seller of the decision within 30 calendar days after receiving a complete ownership transfer approval application package.

**Without Automatic Authority:** Servicers without automatic authority (where the holder also does not have automatic authority) must submit documents to VA within 21 days after receiving a complete application package.

**VA Review:** VA has 10 business days to complete its underwriting review and notify the servicer of its decision. Servicers have 7-calendar days to notify all parties of VA's decision.

*Continued on next page*

*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**h. Decision Notices**

**Approvals:** If the application for ownership transfer is approved, the servicer must notify the seller and include instructions for the assumption of liability by the purchaser, the amount of funding fee that must be paid, and documentation needed to complete the process.

**Disapprovals:** If the application is disapproved, the seller and purchaser must be notified. The disapproval notice must include:

- the reason(s) for the decision and a notice that the decision may be appealed to VA within 30 calendar days,
- contact information of the servicer including address, phone number, and e-mail of the servicer for VA to request the underwriting package if appealed,
- if the application was disapproved for credit reasons, the purchaser must be informed of the basis on which the adverse decision was made in accordance with the [Fair Credit Reporting Act](#).

If the application remains disapproved after 45 calendar days (to allow time for an appeal and review by VA), the \$50 fee for changing the account records, if previously collected, must be refunded.

**i. VA Appeals**

The seller or the purchaser may appeal a disapproval decision to the VA RLC with jurisdiction over where the property is located within 30 calendar days from the notification of disapproval.

When the VA RLC receives an appeal of a denied request, VA will request that the servicer send a copy of the application package used in making the decision.

The loan package must be provided to the VA office of jurisdiction of where the property is located within 7 calendar days.

The VA RLC of jurisdiction of where the property is located will review and either approve the assumption on appeal or uphold the decision to deny the application.

If approved, the servicer should close the assumption within 30 calendar days of VA's approval and submit a closing package to the VA RLC of jurisdiction of where the property is located.

If the appeal is not approved, VA's notice will advise the seller of the right to request a special approval within 15 calendar days of receipt of the disapproval notice.

**Special Approval:** Following an appeal to VA, the seller may request special approval within 15 calendar days of receipt of the disapproval notice.

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan,  
continued*

**i. VA Appeals, continued**

VA's special approval does not release any obligor from liability. VA may determine that special approval of the assumption is in the best interest of the government if:

- the seller agrees to remain secondarily liable on the loan following assumption,
- the seller is unable to otherwise continue payments on the loan, and reasonable efforts have been made to find a creditworthy borrower for the property, or
- if an obligor is released without proper approval, VA may be released from further liability on the guaranty.

VA has 7 calendar days from receipt of the seller's request to make this determination.

If approved, the VA RLC will notify the servicer and seller that the assumption has been approved and that the seller will not be released from liability to VA; however, the property can be transferred to the purchaser(s). The servicer should close the assumption with 30 days of VA's special approval.

If disapproved, the VA RLC will notify the seller and lender that the assumption has not been approved, that the seller will not be released from liability, and the property cannot be transferred.

**j. Steps After Approval**

Once approved, the servicer will complete the transfer with a loan closing that meets all federal and any state and local regulations and requirements.

**k. Assumption Clause**

The VA-approved assumption clause must be included in the deed conveying the property to the purchaser. The VA RLC of jurisdiction of where the property is located has an example(s) of assumption clauses that are both acceptable to VA and compliant with state and local requirements.

Servicers should contact the RLC of jurisdiction of where the property is located to obtain sample language and/or documents.

The servicer is responsible for reviewing the document to establish that it contains the approved assumption clause and recording data and that it has the legal effect intended.

*Continued on next page*

*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**l. Agreement Creating Liability**

If the seller and purchaser have satisfied all the requirements of [38 U.S.C. 3714\(a\)\(1\)](#), but the transfer deed containing an acceptable assumption clause was not included, the servicer must prepare an “Agreement Creating Liability to Holder and to United States” to execute the release.

The servicer must prepare an Agreement Creating Liability to Holder and to “United States” to execute the release.

Three copies are needed for execution and must be signed by the:

- seller,
- purchaser, and
- servicer as agent for the Department of Veteran Affairs.

The VA RLC of jurisdiction of where the property is located has examples of agreements that are both acceptable to VA and compliant with state and local requirements.

Servicers should contact the VA RLC of jurisdiction of where the property is located to obtain sample language and/or documents.

Once received, the servicer is responsible for reviewing the document to establish that it was properly completed and that it has the legal effect intended.

The holder or its authorized servicing agent will then execute the release portion of the form.

In those states where recording the assumption and/or the release instrument is necessary, the Veteran may be asked to pay the recording fees.

**m. Funding Fee**

At loan transfer, the purchaser is required to pay a funding fee to the servicer equal to one-half of one percent of the loan balance as of the date of transfer.

See Chapter 8 of this handbook for information on other exemptions from the funding fee and how to verify exemption status.

When the transfer is a result of an unrestricted transfer, a funding fee is not required.

The fee must be paid to VA within 15 calendar days of the date of assumption using the VA Funding Fee Payment System – [VA FFPS](#) .

The VA funding fee cannot be financed into the loan being assumed. It must be paid in cash at the time of transfer.

**n. Notification to VA**

Servicers must notify VA after ownership has been transferred and release of liability has been granted. Additional information can be found at:

<http://www.benefits.va.gov/homeloans/valeri.asp>.

*Continued on next page*

*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**n. Notification to VA, continued,**

Servicers must also submit a completed closing package to the VA RLC of jurisdiction of the property after ownership has been transferred and an ROL has been granted. The package should contain documentation in the following stacking order:

**Table 3: Assumption Stacking Order**

Order	Document
1	Lender's cover or transmittal letter, including the reason for submission.
2	If Substitution of Entitlement, then Certificate of Eligibility for both Veteran seller and assumer and signed <a href="#">VA Form 26-8106</a> , <i>Statement of Veteran Assuming GI Loan</i>
3	Copy of quit claim deed or other recorded document with transfer of ownership with VA clause or if not included, signed assumption agreement by all parties (seller, assumer, and servicer/holder)
4	Evidence loan current and the time of the transfer
5	<a href="#">VA Form 26-8937</a> , <i>Verification of VA Benefits</i> (if applicable)
6	URLA with revised VA Form 26-1802a, <i>Department of Housing and Urban Development (HUD)/VA Addendum to URLA</i> . These final forms must be properly completed and legible. Forms may be signed and dated anytime from the date of initial application to the date of loan closing.
7	<i>Closing Disclosure Statement (CD)</i>
8	<a href="#">VA Form 26-8497</a> , <i>Request for Verification of Employment</i> or alternative verification of employment (VOE), and other verifications of income such as pay stubs and tax returns.
9	CAIVRS, borrower/co-borrower
10	All credit reports obtained in connection with the loan and any related documentation such as explanations for adverse credit, if required.
11	<a href="#">VA Form 26-8497a</a> , <i>Request for Verification of Deposit</i> or alternative VOD, and other related documents
12	For automated underwriting cases: feedback certificate and underwriter's certification
13	<a href="#">VA Form 26-6393</a> , <i>Loan Analysis</i> , completed and legibly signed
14	If a loan is submitted more than 60 days after loan closing, a statement signed by a corporate officer of the lender that identifies the loan, provides the specific reasons for late reporting and certifies that the loan is current.
15	<a href="#">VA Form 26-0592</a> , <i>Counseling Checklist for Military Homebuyers</i> , if the applicant is on active duty

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued***n. Notification to VA, continued,****Table 3: Assumption Stacking Order, continued**

Order	Document
16	Purchase/Assumption/earnest money contract
17	Other necessary documents (for example – but not limited to, a POA if used, lenders loan quality certification)
18	Copt of the original note and all riders

Servicers are required to retain the supporting documentation for all transfers, assumptions, and an ROL for at least 3 years from approval or denial.

**o. Assumptions without Prior Approval**

Servicers must notify VA's Loan Production Department at the RLC of jurisdiction of where the property is located (in addition to the VALERI system) within 60 days after learning of a transfer that did not receive prior approval by the servicer or VA.

The notice must advise VA whether the servicer intends to exercise the option to immediately refer the case to foreclosure or to give the transferor and transferee the opportunity to apply for "retroactive approval" of the assumption.

Upon learning of an unapproved transfer, the servicer may decide to demand immediate payment of the one-half of one percent VA funding fee and request a copy of the instrument of transfer to determine the liability of the purchaser.

Loans for which a commitment was made prior to March 1, 1988, are commonly known as freely assumable loans. Owners have the right to sell the property securing these loans under any terms; servicers may not impose a restriction, charge, or fee that would limit or nullify this right. A funding fee is not assessed on assumptions of loans where the commitment was made prior to March 1, 1988.

Liability assumed. The purchaser should be afforded an opportunity for retroactive approval of the transfer if:

- the purchaser pays the funding fee,
- the purchaser has assumed all of the seller's obligations in the transfer deed,
- the assumption language is legally binding, and
- it appears that the purchaser intends to satisfy those obligations.

When these conditions have been met, then the Veteran and transferee must specifically apply for an ROL under [38 U.S.C. 3713](#). See subsection a of this topic.

An ROL does not restore the original Veteran's VA home loan entitlement and does not affect the guaranty on the loan.

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**o. Assumptions without Prior Approval, continued**

After the completion of an ROL, a Veteran purchaser can apply for a *Substitution of Entitlement* to restore the Veteran seller's entitlement (see subsection r of this topic).

Liability not assumed. If prior approval of a transfer was not obtained and the title was transferred "subject to" the mortgage or deed of trust, then the purchaser usually has no liability on the loan and no liability for the funding fee. In this instance, the purchaser may have no incentive to maintain the payments.

The original Veteran seller is still liable if the home subsequently defaults and VA pays a claim based on the Veteran's entitlement used to guaranty the loan.

It may still be advisable to extend the opportunity to apply for retroactive approval of the transfer, with the expectation that the purchaser will assume liability for repayment of the loan.

The original mortgagor remains liable on the loan unless he or she is released from personal liability with a qualifying assumption. The Veteran and transferee must specifically apply for an ROL under [38 U.S.C. 3713](#). See subsection a of this topic.

An ROL does not restore the original Veteran's VA home loan entitlement and does not affect the guaranty on the loan. The LGC remains in the original Veteran's name.

After the completion of an ROL, a Veteran purchaser can apply for an SOE to restore the Veteran seller's entitlement. See subsection r of this topic.

An exception applies when the loan was made by a state, territorial, or local governmental agency and the law requires acceleration of the maturity of the loan upon sale or transfer of the property to a person not eligible for assistance under the special program. VA has approved due-on-sale clauses to allow Veterans to participate in these programs and take advantage of below-market interest rates and benefits.

Process for Retroactive Approval. If the Veteran and current owner will be permitted to apply for retroactive approval, the assumption process should be completed in the same manner as if the application had been received prior to the transfer. This includes the right of appeal to VA, if the request is denied.

Should a purchaser fail to cooperate in the retroactive approval process, a servicer has the option of accelerating the loan.

When making this decision, the servicer should consider the implications of state law when delaying acceleration as compared to the prospect of accelerating a current loan that has the potential for future timely payments.

Any decision must be reported to the VA RLC of jurisdiction of the property and in VALERI.

*Continued on next page*

*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**p. General Release of Liability Procedures**

VA-guaranteed loans dated prior to March 1, 1988, can be transferred without VA's prior approval, borrowers and transferees may apply for an ROL before or after the closing of the transaction.

Servicers with automatic authority must process an ROL when the borrower and transferee specifically apply for a release.

Servicers without automatic authority that are servicing loans for holders with automatic authority must advise the holders of any assumption approval requests, and the holders will be responsible for determining creditworthiness.

A processing charge may be assessed for reviewing a request for an ROL just as on a request for approval of ownership change on a later loan.

When a borrower sells his or her home to transfer ownership without requesting an ROL, the servicer may charge up to \$50 for amending its records to reflect a change in ownership, if the parties involved agree and it is permissible under the loan agreement.

No funding fee may be assessed on assumptions of loans where the commitment was made prior to March 1, 1988.

**q. Release of Liability Procedures for Divorce**

A Veteran may seek release from personal liability when his or her former spouse acquires the property as the outcome of a legally binding separation agreement or divorce proceedings and the ex-spouse was jointly liable on the loan with the Veteran prior to the divorce.

Servicers may process requests for an ROL from divorced Veterans using the same general procedures outlined in subsection a of this topic.

When processing an ROL in divorce cases in which the Veteran's former spouse receives the property, the servicer is authorized to charge the normal processing fee to complete the credit underwriting. A funding fee may not be assessed.

The following requirements must be met:

- the divorce is final and absolute and it is determined no appeal will be taken, or
- a signed separation agreement by all parties based on local laws and available documents with reasons why a separation agreement is used in lieu of a final decree of divorce, and
- the entire estate encumbered for the VA-guaranteed loan has become vested in the name of the Veteran's former spouse, and
- there is not any knowledge of any property settlement that would make the Veteran liable between the parties to pay the guaranteed loan.

*Continued on next page*

*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan,  
continued*

**q. Release of Liability Procedures for Divorce, continued**

Some states require a specific amount of time between a legal separation and a divorce (up to one year). With proper documentation, do not delay the request for an ROL, if the divorce is not final, but a legal separation agreement is in effect.

In some instances, the ex-spouse may also be a Veteran; however, for VA purposes, only the applicant who used their entitlement to guaranty the loan is considered a Veteran.

For example, John and Mary Doe are divorcing and both have obtained a COE; however, only John's COE was used to guarantee the loan. Since Mary's COE was not used to guarantee the home, only John is considered the Veteran. If Mary wishes to assume the loan, a credit qualifying package is required for an ROL and Mary can substitute her entitlement with the assumption.

When the Veteran is awarded the property, the ex-spouse may seek an ROL.

Requests for an ROL from an ex-spouse in cases where the Veteran retains the property should be referred to the VA RLC of jurisdiction over the state where the property is located, to process a Non-Veteran Spouse (NVS) ROL.

The servicer will be provided with an NVS letter indicating VA has released the non-Veteran spouse of liability.

The servicer may only charge a fee of \$50 for amending its records to reflect the change.

It is not necessary for the servicer to complete an ROL.

For example, Mary and Jon Smith divorced after they purchased a home using Mary's COE. She obtains the home per the divorce decree. Since she is the Veteran and will be retaining the property, she will contact the VA RLC of jurisdiction of where the property is located to process the NVS.

**r. Substitution of Entitlement**

A Veteran may allow an assumption/ROL of his or her VA-guaranteed loan with the expectation of being able to have his or her entitlement restored. A restoration may be needed to obtain another VA-guaranteed loan in the future by restoring the previously used entitlement for full entitlement benefits. Entitlement cannot be restored until VA makes a determination of eligibility for the Veteran assumer and Veteran seller and processes the SOE. VA completes the SOE process after a servicer closes the assumption and issues an ROL. Questions about an SOE should be directed to the VA RLC with jurisdiction where the property is located.

It is important for the servicer to obtain a COE as soon as possible in the assumption process to determine if there is sufficient entitlement for the Veteran assumer to complete the SOE for the Veteran seller. Entitlement must be of equal amounts to substitute. See Chapter 3 of this handbook for determination of home loan eligibility.

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**r. Substitution of Entitlement, continued**

When a Veteran requests approval for a transfer of ownership, he or she may request to have entitlement restored for use on another VA loan. For VA to approve such a request:

- the assumption (ROL) must be completed and closed by the lender;
- the purchaser must be an eligible Veteran who has sufficient entitlement to substitute for that of the original Veteran;
- the purchaser must certify that the property securing the loan will be occupied as his or her residence;
- the purchasing Veteran must agree to the SOE; and
- there must be equal available entitlement from the assuming Veteran in order to substitute his or her entitlement with the Veteran being released of their entitlement.

The assumption (ROL) must be completed and closed by the lender.

The purchaser must be an eligible Veteran who has sufficient entitlement to substitute for that of the original Veteran.

The purchaser must certify that the property securing the loan will be occupied as his or her residence.

The purchasing Veteran must agree to the SOE, and there must be equal available entitlement from the assuming Veteran in order to substitute his or her entitlement with the Veteran being released of their entitlement.

Whenever two Veterans intend to follow the SOE process, the servicer should have the Veteran purchaser complete [VA Form 26-8106](#), *Statement of Veteran Assuming GI Loan*, (Substitution of entitlement). It should be included in the closing package submitted to VA.

A COE for each Veteran should accompany the credit package used to approve the ROL.

It is important to verify the purchasing Veteran has sufficient entitlement, is willing to substitute their entitlement, and will meet occupancy requirements to substitute before the closing of the ROL to meet the requirements of an SOE.

**s. Unrestricted Transfers**

Certain transfers of ownership, otherwise subject to [38 U.S.C. 3714](#), do not require prior approval by a holder or VA. Loans may not be accelerated due to these types of transfers.

An ROL will not be processed.

Processing charges and funding fees may not be assessed.

It is permissible to charge a reasonable fee up to \$50 for changing the account records, provided that there is an agreement with the borrower and it is permissible under the loan agreement.

*Continued on next page*

*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan,  
continued*

**s. Unrestricted Transfers, continued**

Servicers must report unrestricted transfers to VA through VALERI as authorized transfers of ownership, which will typically be handled automatically by their servicing systems.

Unrestricted transfers of ownership include:

- the creation of a lien or other encumbrance subordinate to the lender's security instrument that does not relate to a transfer of rights of occupancy in the property;
- the creation of a purchase money security interest for household appliances;
- a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
- the granting of a leasehold interest of 3 years or less not containing an option to purchase;
- a transfer to a relative resulting from the death of a borrower;
- a transfer when the spouse or child of the borrower becomes a joint owner of the property with the borrower,
- a transfer into an inter-vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; and
- a transfer resulting from a decree to dissolve a marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the borrower becomes the sole owner of the property.

VA does not consider a sale on an installment contract, contract for deed, or similar arrangement in which title is not transferred from the seller to the buyer, to be a "disposition" of property as sale agreements are not subject to [38 U.S.C. 3714](#).

These sale agreements do not require prior approval from the servicer or VA.

Borrowers inquiring should be cautioned that any borrower considering a sale in this manner would remain liable for repayment of the loan under such an arrangement.

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*Topic 5: Processing Loan Assumptions by the Current Servicer or Holder of the VA Loan, continued*

**t. Documentation Requirements**

VA does not require a servicer to change records, even if the agreement calls for the contract purchaser to make payments directly to that servicer. The contract seller is responsible for forwarding payment coupons and other information to the contract purchaser. Depending on the circumstances of a case, servicers may agree to change the account address to read “in care of” the contract purchaser, although the contract seller must promptly advise the servicer of any change in his or her address.

Sales by installment contracts typically call for transfer of title after a certain period of time.

If the contract calls for title to transfer prior to payment in full of the VA loan, VA requires assumption approval according to the procedures previously discussed.

Processing charges and VA funding fees will be applicable upon transfer.

As one of the conditions of the contract, servicers should advise the borrower that the language stating an application for assumption approval will be made, and approval secured, prior to the completion of title transfer.

The contract should address the options of both parties if the request for assumption approval is denied.

Servicers are required to retain the supporting documentation for all transfers, assumptions, and releases of liability for at least 3 years from approval or denial.

An assumption package should be submitted to the RLC of jurisdiction of where the property is located.