

**CHAPTER 8: BORROWER FEES AND CHARGES AND THE VA
FUNDING FEE**

Overview

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Topic 1: VA Policy on Fees and Charges Paid by the Veteran Borrower

Change Date: November 8, 2012, Change 21

- This section has been updated to make minor grammatical edits.

a. Policy

The VA Home Loan program involves a veteran's benefit. VA policy has evolved around the objective of helping the veteran to use his or her home loan benefit. Therefore, VA regulations limit the fees that the veteran can pay to obtain a loan.

Lenders must **strictly** adhere to the limitations on borrower-paid fees and charges when making VA loans.

b. The VA Funding Fee

In order to defray the cost of administering the VA Home Loan program, each veteran must pay a funding fee to VA at loan closing.

Congress may periodically change the funding fee rates to reflect changes in the cost of administering the program, or to assist a certain class of veterans.

Topic 2: Fees and Charges the Veteran Borrower Can Pay

Change Date: November 8, 2012, Change 21

- This section has been updated to make minor grammatical edits.

a. VA Regulations

VA regulations in 38 CFR 36.4312 provide the list of fees and charges that the veteran can pay.

b. Overview

The veteran can pay a maximum of:

- reasonable and customary amounts for any or all of the “Itemized Fees and Charges” designated by VA, plus
- a one percent flat charge by the lender, plus
- reasonable discount points.

Note: Some special provisions apply to construction, alteration, improvement, and repair loans.

Reference: See subsection e, “Construction Loans,” in Topic 2 of this chapter.

c. Itemized Fees and Charges

The veteran may pay any or all of the following itemized fees and charges in amounts that are reasonable and customary:

Table 1: Itemized Fees and Charges

Charge	Description
Appraisal and Compliance Inspections	<ul style="list-style-type: none"> • The veteran can pay the fee of a VA appraiser and VA compliance inspectors. • The veteran can also pay for a second appraisal if he or she is requesting reconsideration of value. • The veteran cannot pay for an appraisal requested by the lender or seller for reconsideration of value. • The veteran cannot pay for appraisals requested by parties other than the veteran or lender.
Recording Fees	The veteran can pay for recording fees and recording taxes or other charges incident to recordation.
Credit Report	The veteran can pay for the credit report obtained by the lender. For Automated Underwriting cases, the veteran may pay the evaluation fee of \$50 in lieu of the charge for a credit report. For “Refer” cases, the veteran may also pay the charge for a merged credit report, if required.

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*Topic 2: Fees and Charges the Veteran Borrower Can Pay, continued***c. Itemized Fees and Charges, continued****Table 1: Itemized Fees and Charges, continued**

Charge	Description
Prepaid Items	The veteran can pay that portion of taxes, assessments, and similar items for the current year chargeable to the borrower and the initial deposit for the tax and insurance account.
Hazard Insurance	The veteran can pay the required hazard insurance premium. This includes flood insurance, if required.
Flood Zone Determination	The veteran can pay the actual amount charged for a determination of whether a property is in a special flood hazard area, if made by a third party who guarantees the accuracy of the determination. The veteran can pay a charge for a life-of-the-loan flood determination service purchased at the time of loan origination. A fee may not be charged for a flood zone determination made by the lender or a VA appraiser.
Survey	The veteran can pay a charge for a survey, if required by the lender or veteran. Any charge for a survey in connection with a condominium loan must have the prior approval of VA.
Title Examination and Title Insurance	The veteran may pay a fee for title examination and title insurance, if any. If the lender decides that an environmental protection lien endorsement to a title policy is needed, the cost of the endorsement may be charged to the veteran.
Special Mailing Fees for Refinancing Loans	For refinancing loans only, the veteran can pay charges for Federal Express, Express Mail, or a similar service when the saved per diem interest cost to the veteran will exceed the cost of the special handling.
VA Funding Fee	Unless exempt, each veteran must pay a funding fee to VA.
Mortgage Electronic Registration System (MERS) Fee	The veteran may pay a fee for MERS. MERS is a one-time fee for the purpose of electronically tracking the ownership of the beneficial interest in a loan and its servicing rights.
Other Fees Authorized by VA	Additional fees attributable to local variances may be charged to the veteran only if specifically authorized by VA. The lender may submit a written request to the Regional Loan Center for approval if the fee is normally paid by the borrower in a particular jurisdiction and considered reasonable and customary in the jurisdiction.

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Topic 2: Fees and Charges the Veteran Borrower Can Pay, continued

c. Itemized Fees and Charges, continued

Whenever the charge relates to services performed by a third party, the amount paid by the borrower must be limited to the actual charge of that third party.

Example: If the lender obtains a credit report at a cost of \$30, the lender may only charge the borrower \$30 for the credit report. The lender may **not** charge \$35, even if it believes that a \$5 handling charge is fair.

In addition, the borrower may not pay a duplicate fee for services that have already been paid for by another party.

Examples:

- An appraisal is completed on a property and paid for by a prospective purchaser, but the sale is never completed. A second purchaser applies for a loan before the validity period of the Notice of Value (NOV) expires. The lender uses the same NOV. The lender may **not** charge the second purchaser an appraisal fee if no second appraisal is ordered.
- A survey or flood zone determination, if the lender elects to use an existing survey or flood determination.

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d. Lenders One Percent Flat Charge

In addition to the “itemized fees and charges,” the lender may charge the veteran a flat charge not to exceed one percent of the loan amount.

Calculate the one percent on the principal amount after adding the funding fee to the loan, if the funding fee is paid from loan proceeds (except Interest Rate Reduction Refinancing Loans (IRRRLs)).

Note: For IRRRLs, use VA Form 26-8923, IRRRL Worksheet, for the calculation.

The lender’s flat charge is intended to cover all of the lender’s costs and services which are **not** reimbursable as “itemized fees and charges.”

The following list provides examples of items that cannot be charged to the veteran as “itemized fees and charges.” Instead, the lender must cover any cost of these items out of its flat fee:

- lender’s appraisals
- lender’s inspections, except in construction loan cases
- loan closing or settlement fees
- document preparation fees
- preparing loan papers or conveyancing fees
- attorney’s services other than for title work
- photographs
- interest rate lock-in fees
- postage and other mailing charges, stationery, telephone calls, and other overhead
- amortization schedules, pass books, and membership or entrance fees
- escrow fees or charges
- notary fees
- commitment fees or marketing fees of any secondary purchaser of the mortgage and preparation and recording of assignment of mortgage to such purchaser
- trustee’s fees or charges
- loan application or processing fees
- fees for preparation of truth-in-lending disclosure statement
- fees charged by loan brokers, finders or other third parties whether affiliated with the lender or not, and
- tax service fees.

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Topic 2: Fees and Charges the Veteran Borrower Can Pay, continued

e. Construction Loans

The lender can charge an additional flat charge on construction, alteration, improvement, or repair loans.

If the lender supervises the progress of construction and/or makes advances to a veteran in excess of 50 percent of the loan during construction, alteration, improvement, or repair, then the lender may charge the veteran up to two percent of the loan amount in addition to the lender's one percent flat charge.

Example: Total charges to the veteran in these cases would be, at a maximum, itemized fees and charges plus a three percent flat charge plus discount points.

If the lender does not supervise the progress of construction or make advances to a veteran in excess of 50 percent of the loan during construction, alteration, improvement, or repair, then the lender may charge the veteran up to one percent of the loan amount in addition to the lender's one percent flat charge.

Example: Total charges to the veteran in these cases would be, at a maximum, itemized fees and charges plus a two percent flat charge plus discount points.

This provision also applies to supplemental loans.

Topic 3: Fees and Charges the Veteran Borrower Cannot Pay

Change Date: November 8, 2010, Change 15

- This section has been updated to make minor grammatical edits.

a. Lender's Use of One Percent Flat Charge

The lender's maximum allowable flat charge of one percent of the loan amount (or greater percentage in the case of construction loans) is intended to cover **all** of the lender's costs and services which are not reimbursable as "itemized fees and charges." The lender may pay third parties for services or do as it wishes with the funds from the flat charge, as long as the lender complies with the Real Estate Settlement Procedures Act (RESPA).

Topic 2, subsections c and d, of this chapter provide some examples of items that **cannot** be charged to the veteran as "itemized fees and charges."

This section provides more examples of items that cannot be paid by the veteran, but can be paid out of the lender's flat charge or by some party other than the veteran.

b. Attorney's Fees

The lender may **not** charge the borrower for attorney's fees. However, reasonable fees for title examination work and title insurance can be paid by the borrower. They are allowable itemized fees and charges.

VA does not intend to prevent the veteran from seeking independent legal representation. Therefore, the veteran can independently retain an attorney and pay a fee for legal services in connection with the purchase of a home. Closing documents should clearly indicate that the attorney's fee is **not** being charged by the lender, but is being paid by the veteran as part of an independent arrangement with an attorney.

c. Brokerage Fees

Fees or commissions charged by a real estate agent or broker in connection with a VA loan may not be charged to or paid by the veteran-purchaser.

While use of "buyer" brokers is not precluded, veteran-purchasers may **not**, under any circumstances, be charged a brokerage fee or commission in connection with the services of such individuals. Since information on property available for purchase and financing options is widely available to the public from a variety of sources, VA does not believe that preventing the veteran from paying buyer-broker fees will harm the veteran.

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Topic 3: Fees and Charges the Veteran Borrower Cannot Pay, continued

d. Prepayment Penalties

A veteran obtaining a VA refinancing loan **cannot** use loan proceeds to pay penalty costs for prepayment of an existing lien.

A veteran purchasing a property with a VA loan **cannot** pay penalty costs required to discharge any existing liens on the seller's property.

e. HUD/FHA Inspection Fees for Builders

In proposed construction cases in which the dwelling was constructed under the Department of Housing and Urban Development (HUD) supervision, the cost of any inspections or re-inspections must be borne by the builder or sponsor and are not chargeable to the veteran-purchaser. This includes:

- re-inspections by VA or HUD of onsite or offsite work for which an escrow agreement was established, and
- any additional re-inspections deemed necessary by VA to assure conformity with VA regulations.

Topic 4: Other Parties Fees and Charges for the Veteran Borrower

Change Date: November 8, 2010, Change 15

- This section has been updated to make minor grammatical edits.

a. Policy

The seller, lender, or any other party may pay fees and charges, including discount points, on behalf of the borrower.

VA regulations limit charges “made against or paid by” the borrower. They do not limit the payment of fees and charges by other parties.

b. Exception

Excessive seller concessions are prohibited.

Reference: See Topic 5 of this chapter.

Topic 5: Seller Concessions

Change Date: November 8, 2010, Change 15

- This section has been updated to make minor grammatical edits.

a. Definition

For the purposes of this topic, a seller concession is anything of value added to the transaction by the builder or seller for which the buyer pays nothing additional and which the seller is **not** customarily expected or required to pay or provide.

b. Seller Concessions

Seller concessions include, but are not limited to, the following:

- payment of the buyer's VA funding fee
- prepayment of the buyer's property taxes and insurance
- gifts such as a television set or microwave oven
- payment of extra points to provide permanent interest rate buydowns
- provision of escrowed funds to provide temporary interest rate buydowns, and
- payoff of credit balances or judgments on behalf of the buyer.

Seller concessions do **not** include payment of the buyer's closing costs, or payment of points as appropriate to the market.

Example: If the market dictates an interest rate of 7½ percent with two discount points, the seller's payment of the two points would **not** be a seller concession. If the seller paid five points, three of these points would be considered a seller concession.

c. The Problem

In some localities, builders or sellers offer concessions as a competitive tool. In extreme cases, the concessions may entice unwary and unqualified veterans into home mortgages they cannot afford. The concessions may disguise the veteran's inability to qualify for the loan.

d. The Four Percent Limit

Any seller concession or combination of concessions which exceeds four percent of the established reasonable value of the property is considered excessive, and unacceptable for VA-guaranteed loans.

Do **not** include normal discount points and payment of the buyer's closing costs in total concessions for determining whether concessions exceed the four percent limit.

Topic 6: What Happens to Fees and Charges If the Loan Never Closes?

Change Date: November 8, 2010, Change 15

- This section has been updated to make minor grammatical edits.

a. Itemized Fees and Charges

The borrower's out-of-pocket expenses for itemized fees and charges already incurred, such as the appraisal and credit report, do **not** get refunded.

b. The One Percent Flat Fee

If the lender has already collected the one percent flat fee from the borrower, the lender **must** refund the fee. This applies to a loan that does not close for any reason, including the borrower going to another lender.

Topic 7: Fees and Charges That Can Be Included in the Loan Amount

Change Date: November 8, 2012, Change 21

- This section has been updated to make minor grammatical edits.

a. All VA Loans

For all types of VA loans, the loan amount may include the VA funding fee.

No other fees and charges or discount points may be included in the loan amount for regular purchase or construction loans.

Only refinancing loans may include other allowable fees and charges and discount points in the loan amount.

Note: Maximum loan amounts are discussed in chapter 3.

b. “Cash-out” Refinancing Loans

For “cash-out” refinancing loans, allowable fees and charges and discount points (as discussed in Topic 2 of this chapter) may be paid from cash proceeds of the loan.

Only the VA funding fee (and the cost of any energy efficiency improvements) can be added to increase the loan amount.

c. IRRRLs

The following fees and charges may be included in an IRRRL:

- Any allowable fees and charges discussed in section 2 of this chapter. This includes closing costs from the “Itemized Fees and Charges” list, the funding fee, and the lender’s flat charge.
- However, there is **one** limitation unique to IRRRLs: While the borrower may pay any reasonable amount of discount points in cash, no more than two discount points can be included in the loan amount.

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d. Other Refinancing Loans

The following information applies to any loan to refinance:

- a construction loan,
- an installment land sales contract, or
- a loan assumed by the veteran at an interest rate higher than that for the proposed refinancing loan.

The loan amount may include:

- any allowable fees and charges discussed in Topic 2 of this chapter, and
- reasonable discount points.

Note: Maximum loan limits may not allow inclusion of the full amount of these items.

The maximum loan amount will be the lesser of the:

- sum of the outstanding balance of the loan being refinanced plus allowable fees and charges (other than the funding fee) plus discount points, **or**
- VA reasonable value of the property, plus
- VA funding fee, plus
- cost of any energy efficiency improvements.

Topic 8: The VA Funding Fee

Change Date: November 8, 2012, Change 21

- Subsection b has been updated to note the expansion of eligibility for a funding fee waiver as a result of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012.
- Subsection h, Funding Fee Tables, has been updated to note that the present fee structure is extended through September 30, 2017, as a result of the law noted above.
- This section has been updated to make minor grammatical edits.

a. The Lender's Role

The lender must:

- verify the status of any veteran who may be exempt from paying the funding fee;
- determine the amount of funding fee owed by any non-exempt borrower;
- collect the appropriate fee from all non-exempt borrowers at loan closing;
- electronically remit the funds to VA in a timely manner through the VA Funding Fee Payment System (FFPS) <https://www.ffps.vba.va.gov/>;
- print proof of payment of the funding fee; and
- submit proof that the funding fee has been paid or that the veteran is exempt from paying the funding fee to VA with the closed loan package.

Note: The funding fee may be paid from loan proceeds or cash from borrower.

b. Who is Exempt from Paying the Funding Fee?

The following persons are exempt from paying the funding fee:

- Veterans receiving VA compensation for service-connected disabilities.
- Veterans who would be entitled to receive compensation for service-connected disabilities if they did not receive retirement pay.
- Veterans who are **rated by VA as eligible** to receive compensation as a result of pre-discharge disability examination and rating or on the basis of a pre-discharge review of existing medical evidence (including service medical and treatment records) that results in issuance of a memorandum rating.
- Veterans entitled to receive compensation, but who are not presently in receipt because they are on active duty.
- Surviving spouses of veterans who died in service or from service-connected disabilities (whether or not such surviving spouses are veterans with their own entitlement and whether or not they are using their own entitlement on the loan).

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Topic 8: The VA Funding Fee, continued

c. How to Verify Exempt Status

The lender must verify exempt status by obtaining one of the following:

- a properly completed and signed VA Form 26-8937, Verification of VA Benefits, indicating the borrower's exempt status,
- for a veteran who elected service retirement pay instead of VA compensation, a copy of the original VA notification of disability rating and documentation of the veteran's service retirement income, or
- indications on the Certificate of Eligibility (COE) that the borrower is entitled as an unmarried surviving spouse.

Consult VA if the borrower's status is unclear after reviewing the appropriate documents, or if conflicting information is found.

d. Loan Submissions Involving Exempt Borrowers

Submit a copy of the documentation used to verify exempt status with the closing package.

Exception: The lender does **not** have to submit the documentation if the borrower is an eligible surviving spouse, or the documentation had been previously provided to VA with the loan application as verification of the veteran's income.

Note: A lender who believes that a servicemember may be exempt from payment of the funding fee based on a pre-discharge exam should contact the VA Regional Loan Center (RLC) of jurisdiction for assistance confirming the exempt status.

e. If the Exempt Status Cannot Be Determined

If the veteran's exempt status cannot be verified prior to loan closing, the funding fee **must** be remitted as if the borrower was **not** exempt.

Indicate in the closing package that the veteran claims exempt status. VA will determine the borrower's status and refund the funding fee if appropriate.

If the veteran has a pending disability compensation claim at the time of loan closing, the funding fee must be remitted as if the borrower was **not** exempt.

Advise the veteran to contact the VA RLC to request a refund if it is later determined that the veteran is entitled to compensation retroactively to a date prior to loan closing.

Reference: Refer to subsection j, "Refunding Overpayments to the Veteran," in this section.

f. How to Calculate the Funding Fee

For all loans except IRRRLs, apply the appropriate percentage (from the funding fee tables) to the loan amount.

If the funding fee is to be paid from loan proceeds, apply the percentage to the loan amount without the funding fee amount added to it.

For IRRRLs, calculate the funding fee by completing VA Form 26-8923, IRRRL Worksheet.

Reference: For joint loans, see "Calculation of the Funding Fee" in chapter 7.

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Topic 8: The VA Funding Fee, continued

g. How to Use the Funding Fee Tables

The lender must find the appropriate percentage in the tables using the following parameters:

- Is the veteran eligible for VA loan benefits through service in the regular military or the Reserves/National Guard? Examine the COE. For Reserves/National Guard, the COE bears the notation, “RESERVES/NATIONAL GUARD - INCREASED FUNDING FEE,” and is buff-colored rather than green.
- Is the veteran a subsequent user of VA home loan benefits or obtaining his or her first VA loan? Examine the COE. An entitlement code of “5” indicates subsequent use, as does a loan number entered in the “Loan Number” column.
- What type of loan is the veteran obtaining? The funding fee varies depending upon whether the loan is a purchase or construction loan, an IRRRL, or a cash-out refinancing loan.
- Is the veteran making a downpayment of at least five or ten percent?
 - Calculate what percentage of the sales price of the property the veteran is remitting as a downpayment.
 - The downpayment may come from the veteran’s own resources or borrowed funds. **Except**, if the purchase price exceeds the reasonable value of the property, the difference between the purchase price and the reasonable value must be paid by the veteran in cash without borrowing.
- For construction loans only, equity in the secured property counts as a downpayment for calculating the funding fee.

h. The Funding Fee Tables

Purchase And Construction Loans

Note: In 2011, funding fees were lower from October 1 through October 5, and November 18 through November 21. The enactment of Public Law 112- 56, signed November 21, 2011, established rates at the below levels through September 30, 2016. The Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012, signed August 6, 2012, further extended the rates through September 30, 2017.

Table 2: Purchase and Construction Loan Funding Fee Rates

Type of Veteran	Downpayment	Percentage for First time Use	Percentage for Subsequent Use
Regular Military	None	2.15%	3.3%*
Regular Military	5% or more	1.5%	1.5%
Regular Military	10% or more	1.25%	1.25%
Reserves/National Guard	None	2.4%	3.3%*
Reserves/National Guard	5% or more	1.75%	1.75%
Reserves/National Guard	10% or more	1.5%	1.5%

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*Topic 8: The VA Funding Fee, continued***h. The Funding Fee Tables, continued**

Cash-Out Refinancing Loans:

Note: There are no reduced funding fees for regular refinances based on equity. Reduced fees only apply to purchase loans where a downpayment of at least 5 percent is made.

Table 3: Cash-Out Refinancing Funding Fee Rates

Type of Veteran	Percentage for First time Use	Percentage for Subsequent Use
Regular Military	2.15%	3.3%*
Reserves/National Guard	2.4%	3.3%*

*The higher subsequent use fee does not apply to these types of loans if the veteran's only prior use of entitlement was for a manufactured home loan.

Table 4: Other Loan Funding Fee Rates

Type of Loan	Percentage for Either Type of Veteran Whether First Time or Subsequent Use
IRRRLs	0.50%
Manufactured Home Loans (NOT permanently affixed)	1.00%
Loan Assumptions	0.50%

i. How and When to Remit the Funding Fee to VA

Lenders must remit the VA funding fee via the VA FFPS <https://www.ffps.vba.va.gov/>; within 15 calendar days of loan closing.

Lenders paying the fee more than 15 days after loan closing will automatically be assessed a four percent late fee. Fees paid more than 30 days late will automatically be assessed an interest charge in addition to the late fee.

j. Refunding Overpayments to the Veteran

A refund is appropriate if:

- an exempt veteran paid a funding fee, or
- a miscalculation of the fee caused an overpayment.

Using the VA FFPS <https://www.ffps.vba.va.gov/>, lenders can make appropriate corrections that may result in refunds being due.

If the veteran was overcharged, the following applies:

- A veteran who paid cash for the funding fee receives a cash refund for the amount of the overpayment.
- In the case of a veteran who paid the funding fee out of loan proceeds, the lender must apply the overpayment against the loan balance. Submit evidence to VA that the refund was applied to the loan's principal balance.