

§3.809 Specially adapted housing under 38 U.S.C. 2101(a).

In order for a certificate of eligibility for assistance in acquiring specially adapted housing under 38 U.S.C. 2101(a)(2)(A)(i) or 2101A(a) to be extended to a veteran or a member of the Armed Forces serving on active duty, the following requirements must be met:

(a) *General.* A member of the Armed Forces serving on active duty must have a disability that was incurred or aggravated in line of duty in active military, naval, air, or space service and meets the requirements described in paragraph (b) of this section. A veteran must be entitled to compensation under chapter 11 of title 38, United States Code, for a service-connected disability that meets the requirements described in paragraph (b) of this section.

(b) *Disability.* The disability must be rated as one of the following:

(1) A permanent and total disability due to the loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(2) A permanent disability due to blindness in both eyes, having central visual acuity of 20/200 or less in the better eye with the use of a standard correcting lens. For the purposes of this paragraph (b)(2), an eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

(3) A permanent and total disability due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(4) A permanent and total disability due to the loss or loss of use of one lower extremity together with the loss or loss of use of one upper extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(5) A permanent and total disability due to the loss or loss of use of both upper extremities such as to preclude use of the arms at or above the elbow.

(6) A permanent and total disability due to full thickness or subdermal burns that have resulted in contractures with limitation of motion of two or more extremities or of at least one extremity and the trunk.

(c) *Preclude locomotion.* This term means the necessity for regular and constant use of a wheelchair, braces, crutches or canes as a normal mode of locomotion although occasional locomotion by other methods may be possible.

(d) *Amyotrophic lateral sclerosis*. VA considers § 3.809(b) satisfied if the veteran or member of the Armed Forces serving on active duty has service-connected amyotrophic lateral sclerosis rated 100 percent disabling under 38 CFR 4.124a, diagnostic code 8017. (Authority: 38 U.S.C. 501(a), 1151(c)(1), 2101, 2101A)

Cross Reference: Assistance to certain disabled veterans in acquiring specially adapted housing. See §§ 36.4400 through 36.4410 of this chapter.

[26 FR 1606, Feb. 24, 1961, as amended at 34 FR 9560, June 18, 1969; 43 FR 14018, Apr. 4, 1978; 46 FR 47543, Sept. 29, 1981; 75 FR 57861, Sept. 23, 2010; 78 FR 72576, Dec. 3, 2013; FR 79 47586, Aug. 14, 2014; 86 FR 56215, Oct. 8, 2021; 87 FR 26126, May 3, 2022]

Supplement *Highlights* references: 93(1), 106(1), 127(1), 131(1).

Next Section is §3.809a

Reserved