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for Book H of your set of
Federal Regulations**

Title 38, Part 36

Loan Guaranty

Veterans Benefits Administration

Supplement No. 44

Covering period of *Federal Register* issues
through September 1, 2016

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GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book H*

Code of Federal Regulations

Title 38, Part 36

Loan Guaranty

Veterans Benefits Administration

Supplement No. 44

5 September 2016

Covering the period of Federal Register issues
through September 1, 2016

When **Book H** was originally prepared, it was current through final regulations published in the *Federal Register* of 5 March 1992. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which is at page H-8 of Book H, *Loan Guaranty*.

**To ensure accuracy and timeliness of your materials,
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page H-8) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page H-2.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page H-8)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
5. Always retain the filing instructions (simply insert them at the back of the book) as a backup record of filing and for reference in case of a filing error.
6. Be certain that you *permanently discard* any pages indicated for removal in the filing instructions in order to avoid confusion later.

To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

FILING INSTRUCTIONS

**Book H, Supplement No. 44
September 5, 2016**

*Remove these
old pages*

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new pages*

*Section(s)
Affected*

**Do not file this supplement until you confirm that
all prior supplements have been filed**

36.4343-1 to 36.4345-3

36.4343-1 to 36.4345-3

§36.4345

**Be sure to complete the
Supplement Filing Record (page H-8)
when you have finished filing this material.**

HIGHLIGHTS

Book H, Supplement No. 44 September 5, 2016

Supplement Highlights references: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book H (*Loan Guaranty*) was originally supplemented four times a year, in January, April, July and October. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 29 August 2016, the VA published an interim final rule, effective that same day, to amend its loan guaranty regulations to correct an oversight in the delegation of authority to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom. Changes:

- In §36.4345, revised paragraphs (b)(1) and (b)(3).



§36.4343 Restriction on designated fee appraisers.

(a) A designated fee appraiser shall not make an appraisal, excepting of alterations, improvements, or repairs to real property entailing a cost of not more than \$3,500, if such appraiser is an officer, director, trustee, employer, or employee of the lender, contractor, or vendor.

(b) An appraisal made by a designated fee appraiser shall be subject to review and adjustment by the Secretary. The amount determined to be proper upon any such review or adjustment shall constitute the “reasonable value” for the purpose of determining the eligibility of the related loan. (Authority 38 U.S.C. 3703(c)(1), 3731)

Next Section is §36.4345

§36.4345 Delegation of authority.

(a) Except as hereinafter provided, each employee of the Department of Veterans Affairs heretofore or hereafter appointed to, or lawfully filling, any position designated in paragraph (b) of this section is hereby delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom, including but not limited to the adjudication and allowance, disallowance, and compromise of claims; the collection or compromise of amounts due, in money or other property; the extension, rearrangement, or acquisition of loans; the management and disposition of secured and unsecured notes and other property; and those functions expressly or impliedly embraced within paragraphs (2) through (6) of 38 U.S.C. 3720(a). Incidental to the exercise and performance of the powers and functions hereby delegated, each such employee is authorized to execute and deliver (with or without acknowledgment) for, and on behalf of, the Secretary, evidence of guaranty or of insurance credits and such certificates, forms, conveyances, and other instruments as may be appropriate in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or, of any right, title, or interest therein, including, but not limited to, contracts of sale, installment contracts, deeds, leases, bills of sale, assignments, and releases; and to approve disbursements to be made for any purpose authorized by 38 U.S.C. chapter 37.

- (b) (1) Designated positions are as follows:
- (i) Under Secretary for Benefits.
 - (ii) Principal Deputy Under Secretary for Benefits.
 - (iii) Deputy Under Secretary for Economic Opportunity.
 - (iv) Director, Loan Guaranty Service.
 - (iv) Director, Regional Office.
 - (v) Deputy Director, Loan Guaranty Service.
 - (vi) Assistant Director, Loan Guaranty Service.
 - (vii) Loan Guaranty Officer.
 - (viii) Assistant Loan Guaranty Officer.
 - (ix) Realty Officer, Loan Guaranty Service.

(2) The authority hereby delegated to employees of the positions designated in paragraph (b)(1) of this section may, with the approval of the Under Secretary for Benefits, be redelegated.

(3) An employee of the Department of Veterans Affairs heretofore or hereafter appointed to, or lawfully filling, the position of Supervisory Realty Specialist is hereby delegated authority to act on behalf the Secretary to execute and deliver necessary and appropriate instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or any right, title, or interest therein, for any purpose authorized by 38 U.S.C., chapter 37.

- (c) Nothing in this section shall be construed:

(1) To authorize any such employee to exercise the authority vested in the Secretary under 38 U.S.C. 501 or 3703(a)(2) or to sue, or enter appearance for and on behalf of the Secretary, or confess judgment against the Secretary in any court without the Secretary's prior authorization; or

(2) To include the authority to exercise those powers delegated to the Under Secretary for Benefits, or the Director, Loan Guaranty Service, under §§36.4323(e), 36.4338 or 36.4346, Provided, that, anything in the regulations concerning guaranty or insurance of loans to veterans to the contrary notwithstanding, any evidence of guaranty or insurance issued on or after July 1, 1948, by any of the employees designated in paragraph (b) of this section or by any employee designated an authorized agent or a loan guaranty agent shall be deemed to have been issued by the Secretary, subject to the defenses reserved in 38 U.S.C. 3721.

(d) Each Regional Office, Regional Office and Insurance Center, and Medical and Regional Office Center shall maintain and keep current a cumulative list of all employees of that Office or Center who, since May 1, 1980, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. This list will include each employee's name, title, date the employee assumed the position, and the termination date, if applicable, of the employee's tenure in such position. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours.

(e) (1) Authority is hereby delegated to the officers, designated in paragraph (e)(2) of this section, of the entity performing loan servicing functions under a contract with the Secretary to execute on behalf of the Secretary all documents necessary for the servicing and termination of a loan made or acquired by the Secretary pursuant to 38 U.S.C. chapter 37 (other than under subchapter vi of that chapter). Documents executed under this paragraph include but are not limited to: Loan modification agreements, notices of default and other documents necessary for loan foreclosure or termination, notices of appointment or substitution of trustees under mortgages or deeds of trust, releases or satisfactions of mortgages or deeds of trust, acceptance of deeds-in-lieu of foreclosure, loan assumption agreements, loan assignments, deeds tendered upon satisfaction or conversion of an installment land sales contract, and documents related to filing, pursuing and settling claims with insurance companies relating to hazard coverage on properties securing loans being serviced.

(2) The designated officers are:

- (i) Vice President;
- (ii) Assistant Vice President; and
- (iii) Assistant Secretary.

(3) The Director, Loan Guaranty Service, Washington, DC, shall maintain a log listing all persons authorized to execute documents pursuant to paragraph (e) of this section and the dates such persons held such authority, together with certified copies of resolutions of the board of directors of the entity authorizing such individuals to perform the functions specified in paragraph (e)(1) of this section. These records shall be available for public inspection and copying at the Office of the Director of VA Loan Guaranty Service, Washington, DC 20420.

(f) (1) Authority is hereby delegated to the officers, designated in paragraph (f)(2) of this section, of the entity performing property management and sales functions under a contract with the Secretary to execute on behalf of the Secretary all documents necessary for the management and sales of residential real property acquired by the Secretary pursuant to 38 U.S.C. chapter 37. Documents executed under this paragraph include but are not limited to: Sales contracts, deeds, documents relating to removing adverse occupants, and any documents relating to sales closings. The authorization to execute deeds is limited to deeds other than general warranty deeds.

(2) The designated officers are:

- (i) Senior Vice President;
- (ii) Vice President;
- (iii) Assistant Vice President;
- (iv) Assistant Secretary;
- (v) Director;
- (vi) Senior Manager; and
- (vii) Regional Manager.

(3) The Director, Loan Guaranty Service, Washington, DC, shall maintain a log listing all persons authorized to execute documents pursuant to paragraph (f) of this section and the dates such persons held such authority, together with certified copies of resolutions of the board of directors of the entity authorizing such individuals to perform the functions specified in paragraph (f)(1) of this section. These records shall be available for public inspection and copying at the Office of the Director of VA Loan Guaranty Service, Washington, DC 20420. (Authority: 38 U.S.C. 3720(a)(5))

[75 FR 33705, June 15, 2010; as amended at 81 FR 59138, Aug. 29, 2016]

Supplement *Highlights* References: 44(1)