

VA 4.09 Regulations on approved loans. (1) **DISBURSEMENT OF LOAN FUNDS.** The department shall establish appropriate procedures to regulate and control the disbursement of loan funds so as to assure proper application and to properly secure the department's investment, and for that purpose may designate local disbursing agents to act for and under the direction of the department.

(2) **INCREASE IN PRIMARY MORTGAGE LOAN.** That part of a loan which, at the time the loan is made, is in excess of the amount stated in the primary lender's commitment, or any subsequent increase or advance in the principal balance, except for the payment of taxes and insurance, shall not acquire priority of lien superior to the department's second mortgage unless approved in writing by the department. In such cases, the department may take whatever action it deems advisable to protect its second mortgage interest and may require immediate payment of its loan.

(3) **INSTRUMENTS NECESSARY TO COMPLETE LOAN.** The department shall withhold \$100 of the loan proceeds until the following instruments have been received:

(a) The mortgage note to the department properly executed and of even date with the mortgage.

(b) The mortgage to the department properly executed and recorded.

(c) Evidence that the mortgage to the department is a valid lien, subject only to the primary mortgage, if any, described in the primary lender's commitment to the department. Such evidence shall consist of either an attorney's opinion of title directed to the department or a title insurance policy.

(d) A memorandum of fire and extended coverage insurance or fire and windstorm insurance in an amount at least equal to the appraised value of the improvements at the time of application.

(e) A copy of the closing statement in all purchase transactions showing that all tax credits given a veteran on closing have been deposited in an escrow account to be applied as the taxes shall become due.

(4) **VETERAN CHARGED.** Where a veteran fails to provide evidence that the mortgage to the department is a valid lien subject only to the primary mortgage, if any, described in the primary lender's commitment, or fails to carry at his own expense fire and extended coverage insurance or fire and windstorm insurance in an amount at least equal to the appraised value of the improvements at the time of application on property mortgaged to the department, the department shall procure the necessary insurance or title evidence and charge the cost to the veteran.

(5) **RECORDING FEES.** All recording fees incurred in completing the mortgage loan to the department will be paid by the veteran.

(6) **PAYMENT DISTRIBUTION.** Monthly installments will be applied first to interest, then to mortgage cancellation life insurance premiums, and then to principal.

(7) **REDUCTION IN MONTHLY PAYMENTS.** The terms of the contract between the veteran and the department must be complied with by the veteran after the note and mortgage have been executed, but the

department may change the time and manner of repaying the obligation at the request of the veteran when such change is justified by circumstances not in existence at the time the loan was made.

(8) **FALSE STATEMENT BY APPLICANT.** Whenever it is determined that an applicant has obtained a housing loan through fraud, misrepresentation, or through concealment of a material fact in his application, the department's mortgage note may be accelerated and full payment demanded.

(9) **TRANSFER OF POSSESSION.** The department may accelerate its mortgage note and require that its mortgage loan be paid in full when a veteran transfers physical possession of the premises, and will so provide in the note and mortgage.

(10) **SALE OF PROPERTY.** The department will accelerate its mortgage note and require that its mortgage loan be paid in full when a veteran completes a sale of the principal property mortgaged to the department.

(11) **SUBORDINATION AGREEMENT.** A subordination agreement to permit an increase in a veteran's primary mortgage may be executed by the department only when it is satisfied that the property will provide adequate security for its mortgage.

(a) The veteran must submit evidence of his present income and his shelter cost payments under the repayment terms of the proposed new primary note and mortgage to establish that the new shelter cost payments will not be excessive in view of his income.

(b) The department may execute a subordination agreement for the application of siding only when it is demonstrated that new siding is necessary to protect the veteran's housing investment and that the property as improved will have a value sufficiently in excess of the total encumbrances to provide adequate security for the department's loan.

(c) Subordination agreements to add garages, family rooms, modernize kitchens and bathrooms or to make other improvements may be entered into if the cost of such improvement is not disproportionate to the value of the home.

(12) **PARTIAL RELEASE OF MORTGAGE.** The department may release a portion of the property providing security for its mortgage if the release of such property will not unduly diminish the value of the remainder of the property. The department may require that any funds received by a veteran from the sale of the property so released must be applied pro rata to all mortgages thereon in the ratio existing between such mortgages at the time the department's loan was made. If the primary mortgagee waives claim to such funds or if the department holds the primary mortgage, then such funds shall be applied as a principal reduction of the department's mortgage loan. If all or part of such funds are to be used to improve the property the department may approve such use, provided that the expenditure of said funds will be supervised.

(13) **RELEASE OF SATISFACTION.** The department's satisfaction of mortgage, the mortgage and mortgage note shall not be released for a period of 2 weeks following receipt of final payment, but such instruments shall be released immediately upon receipt of final pay-

ment in cash or in the form of a bank draft, bank money order, cashiers check, certified check, or savings and loan or building and loan association check.

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