

APPENDIX A.—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR Sec.	Description	Pre-Oct 1997	Oct 1997
2.6(b)(3)	Cert. or Uncert. Copy of TM-Related File Wrapper/Contents	50	—
2.6(b)(4)(i)	Cert. Copy of Registered Mark, Title or Status	10	15
2.6(b)(4)(ii)	Cert. Copy of Registered Mark, Title or Status—Expedited	20	30
2.6(b)(5)	Certified or Uncertified Copy of TM Records	25	—
2.6(b)(6)	Recording Trademark Property, Per Mark, Per Document	40	—
2.6(b)(6)	For Second and Subsequent Marks in Same Document	25	—
2.6(b)(7)	For Assignment Records, Abstracts of Title and Cert	25	—
2.6(b)(8)	Terminal Use X-SEARCH	40	—
2.6(b)(9)	Self-Service Copy Charge	0.25	—
2.6(b)(10)	Labor Charges for Services	30	40
2.6(b)(11)	Unspecified Other Services	(¹)	—

— These fees are not affected by this rulemaking. ¹ Actual cost.

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BILLING CODE 3510-16-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-AH73

Loan Guaranty: Electronic Payment of Funding Fee

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: This document proposes to amend the VA loan guaranty regulations to require that all funding fees (including late fees and interest) for VA-guaranteed loans be paid electronically through the Automated Clearing House (ACH) program. The adoption of the ACH program would eliminate lost mail and eliminate data errors resulting from manual recording. Further accounting reconciliation would be reduced. In addition, banking costs would be reduced. This document also corrects a typographical error in the "Allowable fees and charges; manufactured home unit" section.

DATES: Comments must be received on or before July 7, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH73." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Ms. Judith Caden, Assistant Director for Loan Policy (264), Loan Guaranty

Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273-7368.

SUPPLEMENTARY INFORMATION: This document proposes to amend the VA loan guaranty regulations to require that all funding fees (including late fees and interest) for VA-guaranteed loans be paid electronically through the Automated Clearing House (ACH) program. The amounts are paid by the veteran to VA through the mortgage lender. Since 1988, VA has allowed lenders to use the ACH program on a voluntary basis, and approximately one-half of VA's funding fees (including late fees and interest) are paid through the ACH program. When the ACH program is not used, the mortgage lender sends the amount due through the mail to VA by check. The ACH program uses electronic transfer instead of the mail.

There are three methods for paying the VA funding fee (including late fees and interest) through the ACH program: The operator-assisted phone method, the terminal entry method, and the CPU-to-CPU transmission method. All three methods provide for the transmission of loan data to the collection agent and thereby allow the collection agent to use the data to debit the lender's account for payment.

The operator assisted phone method does not require the lender to use a computer. With this method, the lender calls the collection agent's operator via a toll free number and orally provides the loan information for each loan. With the terminal entry method and the CPU-to-CPU method, the lender uses a terminal or personal computer with a modem to connect with the collection agent's computer system. With the terminal entry method, information is provided in response to questions from the computer program of the collection agent. With the CPU-to-CPU transmission, all of the information requested is provided in a pre-

programmed data file submitted to the collection agent.

Under the ACH program, the lending institution submits an authorization for payment of the funding fee (including late fees and interest) along with the following information: VA lender ID number; four-digit personal identification number; dollar amount of debit; VA loan number; OJ (office of jurisdiction) code; closing date; loan amount; information about whether the payment includes a shortage, late charge, or interest; veteran name; loan type; sale amount; downpayment; whether the veteran is a reservist; and whether this is a subsequent use of entitlement. This information is needed to identify the parties and allow for the transfer of payment. Under all three methods, the collection agent prepares the funding fee file based on the information submitted.

In order to get set up under the ACH program so that the collection agent would be able to debit the lender's account for the funding fee payment, the lender would need to provide the following information: The lender's name and address, the name and phone number of a lender contact person, the lender's VA ID number, the transit routing number of the bank the lender uses, and the lender's bank account number.

The adoption of this proposal would not impose any costs for using the ACH program on veterans or lending institutions. Under the ACH program, the Department of the Treasury contracts with a collection agent who collects funding fees (including late fees and interest) for VA, and the cost for the ACH program is borne by the Department of the Treasury.

It appears that the adoption of the ACH program would be advantageous to veterans and to VA. The adoption of the ACH program would eliminate lost mail and eliminate data errors resulting from

manual recording. Also, accounting reconciliation would be reduced because payments are computerized and cash application is more automated than with systems where payment information must be manually entered by VA personnel. In addition, banking costs would be reduced, since overall electronic transfer costs less than paper check and wire transfer, i.e., on the average \$.25 per item electronically versus \$.50 by check.

For all transactions received prior to 8:15 p.m. on a workday, VA would be credited with the amount paid to the collection agent at the opening of business the next banking day.

The provisions of §§ 36.4232(a)(3), 36.4254(d)(3), and 36.4312(e)(3) relating to interest and late charges would not change for payments made electronically. A four-percent late charge is assessed if a payment is received 15 calendar days after the closing date, and an interest charge is assessed on the late fee when payment is received 30 calendar days after the closing date. The funding fee receipt, which is mailed, notifies lenders of the amount of any late fee and interest charge.

It is proposed that a final rule become effective January 1, 1998. This would allow lenders time to become familiar with the ACH system.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

The collection of information included in the proposed revision to §§ 36.4232, 36.4254, and 36.4312 in this rulemaking proceeding concerns the requirement that lenders provide VA information necessary to get set up on the ACH system to pay the funding fee electronically and the existing requirement that lenders provide VA certain standard information when submitting loan guaranty funding fees. The collection of the latter information on VA Form 26-8986, Loan Guaranty Funding Fee Transmittal, which is currently submitted with funding fee

check payments, has been approved by the Office of Management and Budget through May 31, 1999, under approval No. 2900-0474.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collection(s) of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and;
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the proposed collections of information contained in this document between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Title: Loan Guaranty: Electronic Payment of Funding Fee.

Summary of collection of information: The information collection subject to this rulemaking concerns information to get set up on the ACH system to pay the funding fee for a VA-guaranteed loan electronically and information to accompany the funding fee payment.

Description of the need for information and proposed use of information: The collection of information subject to this rulemaking is designed to obtain information about lenders to allow electronic collection of the funding fee and standard identifying information and loan details from lenders relating to the funding fee.

Description of likely respondents: lending institutions.

For information provided to get set up on the ACH system:

Estimated total annual reporting burden: 589 hours.

Estimated annual burden per respondent: 083 hour.

Estimated number of respondents: 7,100.

Estimated annual frequency of responses: 1 per episode.

For information collected with funding fee payments:

Estimated total annual reporting burden: 13,200 hours.

Estimated annual burden per respondent: .033 hour.

Estimated number of respondents: 400,000.

Estimated annual frequency of responses: 1 per episode.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of these proposed regulatory amendments would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The rule implements a program that will enhance operations and be cost beneficial for all participating lenders. Lenders will be able to participate by having access to a personal computer, and personal computing is pervasive within the industry. Lenders will also have the option of paying funding fees by calling an operator who will enter the information into the ACH system for them. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan programs—housing and community development, Manufactured homes, Veterans.

Approved: March 4, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is proposed to be amended as set forth below.

PART 36—LOAN GUARANTY

1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701-3704, 3707, 3710-3714, 3719, 3720, 3729, 3762, unless otherwise noted.

§ 36.4232 [Amended]

2. In § 36.4232, paragraph (e)(1) is amended by removing “(e)(4)” and adding, in its place, “(e)(5)”; paragraph (e)(2) is amended by removing “paragraphs (e)(4) and” and adding, in its place, “paragraph”; paragraph (e)(3)

is amended by removing "paragraphs (e)(4) and" and adding, in its place, "paragraph"; by redesignating paragraph (e)(4) as paragraph (e)(5); and by adding a new paragraph (e)(4) to read as follows:

§ 36.4232 Allowable fees and charges; manufactured home unit.

* * * * *

(e) * * *

(4) The lender is required to pay to the Secretary electronically through the Automated Clearing House (ACH) system the fees described in paragraphs (e)(1) and (e)(2) of this section and any late fees and interest due on them. This shall be paid to a collection agent by operator-assisted telephone, terminal entry, or central processing unit-to-central processing unit (CPU-to-CPU) transmission. The collection agent will be identified by the Secretary. The lender shall provide the collection agent with the following: authorization for payment of the funding fee (including late fees and interest) along with the following information: VA lender ID number; four digit personal identification number; dollar amount of debit; VA loan number; OJ (office of jurisdiction) code; closing date; loan amount; information about whether the payment includes a shortage, late charge, or interest; veteran name; loan type; sale amount; downpayment; whether the veteran is a reservist; and whether this is a subsequent use of entitlement. For all transactions received prior to 8:15 p.m. on a workday, VA will be credited with the amount paid to the collection agent at the opening of business the next banking day.

(Authority: 38 U.S.C. 3729(a).)

* * * * *

3. Section 36.4254 is amended by redesignating paragraphs (d)(4) and (d)(5) as paragraphs (d)(5) and (d)(6), respectively; and by adding a new paragraph (d)(4) to read as follows:

§ 36.4254 Fees and charges.

* * * * *

(d) * * *

(4) The lender is required to pay to the Secretary electronically through the Automated Clearing House (ACH) system the fees described in paragraphs (d)(1) and (d)(2) of this section and any late fees and interest due on them. This shall be paid to a collection agent by operator-assisted telephone, terminal entry, or CPU-to-CPU transmission. The collection agent will be identified by the Secretary. The lender shall provide the collection agent with the following: authorization for payment of the funding fee (including late fees and

interest) along with the following information: VA lender ID number; four-digit personal identification number; dollar amount of debit; VA loan number; OJ (office of jurisdiction) code; closing date; loan amount; information about whether the payment includes a shortage, late charge, or interest; veteran name; loan type; sale amount; downpayment; whether the veteran is a reservist; and whether this is a subsequent use of entitlement. For all transactions received prior to 8:15 p.m. on a workday, VA will be credited with the amount paid to the collection agent at the opening of business the next banking day.

(Authority: 38 U.S.C. 3729(a).)

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4. Section 36.4312 is amended by redesignating paragraph (e)(4) as paragraph (e)(5); and by adding a new paragraph (e)(4) to read as follows:

§ 36.4312 Charges and fees.

* * * * *

(e) * * *

(4) The lender is required to pay to the Secretary electronically through the Automated Clearing House (ACH) system the fees described in paragraphs (e)(1) and (e)(2) of this section and any late fees and interest due on them. This shall be paid to a collection agent by operator-assisted telephone, terminal entry, or CPU-to-CPU transmission. The collection agent will be identified by the Secretary. The lender shall provide the collection agent with the following: authorization for payment of the funding fee (including late fees and interest) along with the following information: VA lender ID number; four-digit personal identification number; dollar amount of debit; VA loan number; OJ (office of jurisdiction) code; closing date; loan amount; information about whether the payment includes a shortage, late charge, or interest; veteran name; loan type; sale amount; downpayment; whether the veteran is a reservist; and whether this is a subsequent use of entitlement. For all transactions received prior to 8:15 p.m. on a workday, VA will be credited with the amount paid to the collection agent at the opening of business the next banking day.

(Authority: 38 U.S.C. 3729(a).)

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-A116

Loan Guaranty: Credit Standards

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend VA's loan guaranty regulations regarding credit standards used by lenders to evaluate the creditworthiness of veteran-borrowers for home loans. VA is committed to regular review and revision of the standards used to determine the creditworthiness of veteran-applicants as issues arise and as the mortgage industry changes. These proposed changes are designed to keep VA in step with the rest of the home mortgage industry, at least to an extent appropriate for a Government benefit-related mortgage program. This document also requests Paperwork Reduction Act comments concerning the collection of information contained in this document.

DATES: Comments must be received on or before July 7, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-A116." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Ms. Judith Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-7368.

SUPPLEMENTARY INFORMATION: VA is proposing to amend its loan guaranty regulations regarding credit standards used by lenders to evaluate the creditworthiness of veteran-borrowers for home loans. The regulations proposed to be amended are set forth at 38 CFR 36.4337.

Statutory credit criteria applicable to the VA Loan Guaranty Program are set forth at 38 U.S.C. 3710. Under the VA Loan Guaranty Program, a loan may not be guaranteed unless the veteran is a satisfactory credit risk, and the