

(b) *Effective period.* This section is effective from 12:01 p.m. until 3 p.m. on June 7, 1996, and from 6 a.m. to 6 p.m. on June 8, 1996, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) Vessels not participating in this event, swimmers, and personal watercraft of any nature are precluded from entering or moving within the safety zone without permission from the Captain of the Port New York.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 9, 1996.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96-13859 Filed 6-3-96; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-A101

Loan Guaranty: Miscellaneous

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) regulations governing the VA home loan program by deleting superseded provisions, amending provisions to reflect statutory changes, deleting provisions that have no legal effect, and updating a position title. This document also amends the regulations by incorporating a precedent opinion of the VA General Counsel stating that the law governing the housing loan and specially adapted housing programs does not preclude VA from approving a loan or grant when the property will be held in a Family Living Trust, provided the veteran has at least an equitable life estate in the property, the lien for any VA financing attaches to the remainder, and the trust arrangement is valid under State law.

EFFECTIVE DATE: June 4, 1996.

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SUPPLEMENTARY INFORMATION: Section 36.4216 is deleted since it has been superseded by a new 38 CFR Part 44 which sets forth the current requirements for governmentwide debarment and suspension of program participants, including manufactured home lenders and loan holders from the VA Loan Guaranty Program.

A recent legal opinion of the VA General Counsel, VAOPGCPREC 26-95, published in summary form in the Federal Register on March 12, 1996, 61 FR 10063, holds that the law governing the housing loan and specially adapted housing programs does not preclude VA from approving a loan or grant when the property will be held in a Family Living Trust, provided the veteran has at least an equitable life estate in the property, the lien for any VA financing attaches to the remainder, and the trust arrangement is valid under State law. Previous regulations specifying the title interest a veteran must obtain in the subject property in order to qualify for assistance under these programs did not address property held in trust for estate-planning reasons. Accordingly, sections 36.4253(a), 36.4350(a), 36.4402(a), and 36.4515(a) are revised to reflect the holding in this precedent opinion.

The Servicemen's Readjustment Act of 1944 originally permitted VA to pay a guaranty claim when the holder reported the loan as being in default. The Deficit Reduction Act of 1984, P.L. 98-369, § 2512, amended what is now codified as 38 U.S.C. § 3732(a) to require that a liquidation sale must be held before a claim may be paid. Sections 36.4316 and 36.4318 are amended to reflect these statutory changes.

Section 36.4346(g)(2) is revised to correct citation references.

Section 36.4402(a) is revised to provide that a veteran is eligible for assistance under section 2101(a) of Chapter 21 if he or she has or will acquire an interest in a suitable housing unit which is at least a beneficial interest in a revocable Family Living Trust. This change incorporates the holding of VAOPGCPREC 26-95, as discussed above.

Section 36.4404(a) is revised to note that the maximum statutory amount of a grant to obtain specially adapted housing is \$38,000. Section 36.4404(b) is revised to update the maximum statutory amount of a grant for a

residence already adapted with special features from \$6,000 to \$6,500.

The authority cited for § 36.4507(c) is corrected, from 38 U.S.C. § 3710(c) to § 3711.

Regulations referring to covenants purporting to restrict the sale or occupancy of property by race, color, religion, or national origin are removed. Previous regulations (§§ 36.4350(b)(7) and 36.4515(b)(7)) provided that the violation of such a covenant will not render title to property unacceptable to VA. Also, under previous § 36.4510(d), a borrower's recording such a covenant may have constituted an event of default on a VA direct loan.

In removing these provisions, VA stresses its continuing commitment to fair housing. VA affirmatively administers its housing programs in a manner to further the purposes and objectives of the Fair Housing Act, 42 U.S.C. §§ 3601-3631. VA will not condone any violation of fair housing law in its programs, and will take all necessary measures to deal with any violation that comes to VA's attention. VA believes, however, that present law makes these regulatory provisions unnecessary.

The provisions relating to racially-restrictive covenants were originally added to the regulations in response to the Supreme Court decision in *Shelley v. Kraemer*, 334 U.S. 1 (1948). Although that decision held that courts may not enforce racially-restrictive covenants, it also held such privately-created covenants were not invalid and could be effectuated by voluntary adherence.

Much has changed in the area of fair housing since 1948. The Fair Housing Act clearly and unambiguously prohibits discrimination in the sale, rental, or financing of housing on the basis of race, color, religion, sex, familial status, or national origin. VA believes it is clear that such restrictive covenants are absolutely null and void, and any attempt to create or enforce such a covenant would be unlawful. Since these covenants have absolutely no effect, VA sees no reason to provide by regulation that violations of such purported restrictions may be ignored in considering whether or not a veteran has good and marketable title. VA does not believe any knowledgeable attorney or title professional would consider the existence of such an obsolete, unlawful covenant in reviewing title.

Case law also holds that recorders of deeds may not accept for recording new racially restrictive covenants. Accordingly, VA sees no purpose in making the recording of such a covenant an event of default.

Finally, all references to the Chief Benefits Director in Part 36 are changed to refer to this official's new title, the Under Secretary for Benefits.

This final rule consists of interpretive rules, restatements of statute, updating a position title, and nonsubstantive changes, and, therefore, is not subject to the notice-and-comment and effective-date provisions of 5 U.S.C. 553.

The Secretary hereby certifies that this final rule will 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. This final rule would not cause a significant effect on any entities since it consists of interpretive rules, restatements of statute, updating a position title, and nonsubstantive changes. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory-flexibility analysis requirements of §§ 603 and 604.

The Catalog of Federal Domestic Assistance Program numbers are 64.106, 64.114, 64.118 and 64.119.

List of Subjects in 38 CFR Part 36

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

Approved: May 24, 1996.
Jesse Brown,
Secretary of Veterans Affairs.

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

PART 36—LOAN GUARANTY

1. The authority citation for part 36 §§ 36.4201 through 36.4287 continues to read as follows:

Authority: Sections 36.4201 through 36.4287 issued under 38 U.S.C. 501, 3701-3704, 3707, 3710-3714, 3719, 3720, 3729, unless otherwise noted.

§ 36.4216 [Removed]

2. Section 36.4216 is removed.

§ 36.4220 [Amended]

3. In § 36.4220, paragraph (a) introductory text is amended by removing "Chief Benefits Director" both times it appears and adding, in its place, "Under Secretary for Benefits".

§ 36.4221 [Amended]

4. In § 36.4221 paragraphs (b) and (c) are amended by removing "Chief Benefits Director" each time it appears and adding, in its place, "Under Secretary for Benefits".

§ 36.4226 [Amended]

5. In § 36.4226, paragraphs (d), (f) and (g) are amended by removing "Chief

Benefits Director" and adding, in its place "Under Secretary for Benefits".

6. In § 36.4253, paragraphs (a)(2) and (e) are amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits". Paragraph (a)(3) is revised, and a new paragraph (a)(4) is added to read as follows:

§ 36.4253 Title and lien requirements.

(a) * * *

(3) A life estate, provided that the remainder and reversionary interests are subjected to the lien; or

(4) A beneficial interest in a revocable Family Living Trust that ensures that the veteran, or veteran and spouse, have an equitable life estate, provided the lien attaches to any remainder interest and the trust arrangement is valid under State law.

* * * * *

§ 36.4254 [Amended]

7. In § 36.4254, paragraph (a)(8) is amended by removing "Chief Benefits Director" and adding, in its place "Under Secretary for Benefits".

§ 36.4283 [Amended]

8. In § 36.4283, paragraph (k) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

9. The authority citation for part 36 36.4300 through 36.4375 is revised to read as follows:

Authority: Sections 36.4300 through 36.4375 issued under 38 U.S.C. 101, 501, 3701-3704, 3710, 3712-3714, 3720, 3729, 3732, unless otherwise noted.

§ 36.4312 [Amended]

10. In § 36.4312, paragraph (d)(1)(ix) and (d)(7)(iv) are amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4316 [Amended]

11. In § 36.4316, paragraph (c) is removed, and paragraph (a) is amended by removing ", submit a claim for payment of the guaranty. The holder may also then or thereafter", and paragraph (b) is amended by removing "A claim for the guaranty, or" and revising "the" to read: "The".

12. In § 36.4318, paragraph (a) is revised to read as follows:

§ 36.4318 Refunding of loans in default.

(a) Upon receiving a notice of default or a notice under § 36.4317, the Secretary may within 30 days thereafter require the holder upon penalty of otherwise losing the guaranty or

insurance to transfer and assign the loan and the security therefore to the Secretary or to another designated by the Secretary upon receipt of payment in full of the balance of the indebtedness remaining unpaid to the date of such assignment. Such assignment may be made without recourse but the transferor shall not thereby be relieved from the provisions of § 36.4325.

* * * * *

13. In § 36.4320, paragraph (j) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; paragraph (h)(2) is revised, and a new authority citation is added at the end of the section to read as follows:

§ 36.4320 Sale of security.

* * * * *

(h) * * *

(2) The holder may cancel any insurance in force when the holder acquires the property, provided the holder has obtained the prior approval of the Secretary. Coincident with the notice of election to convey or transfer the property to the Secretary or with the acquisition of the property by the holder, following such notice, whichever is later, the holder shall obtain endorsements on all such insurance policies naming the Secretary as an assured, as his/her interest may appear. Such insurance policies shall be forwarded to the Secretary at the time of the conveyance or transfer of the property to the Secretary or as soon after that time as feasible.

* * * * *

(Authority: 38 U.S.C. 3732, Pub. L. 100-527)

§ 36.4335 [Amended]

14. In § 36.4335, the introductory text is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4342 [Amended]

15. In § 36.4342, paragraphs (b) and (c) are amended by removing "Chief Benefits Director" each time it appears and adding, in its place "Under Secretary for Benefits".

§ 36.4343 [Amended]

16. In § 36.4343, paragraph (a) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4346 [Amended]

17. In § 36.4346, paragraph (g)(2) is amended by removing "36.4331" and adding, in its place, "44.205 and 44.305".

§ 36.4349 [Amended]

18. In § 36.4349, paragraphs (d), (f), and (g) are amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

19. In § 36.4350, paragraph (a)(2) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; paragraph (b)(7) is removed; and paragraph (b)(8) is redesignated as paragraph (b)(7). Paragraph (a)(3) is amended by removing "." and adding, in its place, "; or", and a new paragraph (a)(4) is added to read as follows:

§ 36.4350 Estate of veteran in real property.

(a) * * *
 (4) A beneficial interest in a revocable Family Living Trust that ensures that the veteran, or veteran and spouse, have an equitable life estate, provided the lien attaches to any remainder interest and the trust arrangement is valid under State law.

* * * * *

§ 36.4352 [Amended]

20. Section 36.4352 is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4364 [Amended]

21. In § 36.4364, paragraph (f) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4393 [Amended]

22. In § 36.4393, paragraphs (g) and (h) are amended by removing "Chief Benefits Director" each time it appears and adding, in its place, "Under Secretary for Benefits".

23. The authority citation for part 36.4400 through 36.4411 continues to read as follows:

Authority: Sections 36.4400 through 36.4411 issued under 72 Stat. 1114, 1168, as amended (38 U.S.C. 501, 2101), unless otherwise noted.

24. In § 36.4402, paragraph (a)(4)(iii) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits". Paragraph (a)(4)(iii) is further amended by removing ";" and adding, in its place, ", or"; and a new paragraph (a)(4)(iv) is added to read as follows:

§ 36.4402 Eligibility.

(a) * * *
 (4) * * *
 (iv) A beneficial interest in a revocable Family Living Trust that ensures that the veteran, or veteran and spouse, have an equitable life estate,

provided the trust arrangement is valid under State law;

* * * * *

25. In § 36.4404, paragraphs (a) introductory text, (b)(2), and the authority citation are revised to read as follows:

§ 36.4404 Computation of cost.

(a) *Computation of cost of housing unit.* Under section 2101(a) of chapter 21, for the purpose of computing the amount of benefits payable to a veteran-beneficiary, there may be included in the total cost to the veteran the following amount, not to exceed \$38,000:

* * * * *

(b) * * *
 (2) \$6,500.

(Authority: 38 U.S.C. 2102(a), (b))

§ 36.4408 [Amended]

26. In § 36.4408, paragraph (b) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

27. The authority citation for part 36 §§ 36.4500 through 36.4600 is revised to read as follows:

Authority: Sections 36.4500 through 36.4600 issued under 38 U.S.C. 501, unless otherwise noted.

28. In § 36.4507, paragraph (b)(2) is amended by removing "Chief Benefits Director, and adding, in its place, "Under Secretary for Benefits", and the authority citation following paragraph (c) is revised to read as follows:

§ 36.4507 Refinancing of mortgage or other lien indebtedness.

* * * * *

(c) * * *

(Authority: 38 U.S.C. 3711)

* * * * *

§ 36.4510 [Removed]

29. In § 36.4510, paragraph (d) is removed.

30. In § 36.4515, paragraph (a)(2) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; and by removing paragraph (b)(7); and by redesignating paragraph (b)(8) as paragraph (b)(7). Paragraph (a)(3) is amended by removing "." in the last sentence, and adding, in its place, ", or"; and a new paragraph (a)(4) is added to read as follows:

§ 36.4515 Estate of veteran in real property.

(a) * * *
 * * * * *

(4) A beneficial interest in a revocable Family Living Trust that ensures that

the veteran, or veteran and spouse, have an equitable life estate, provided the lien attaches to any remainder interest and the trust arrangement is valid under State law.

* * * * *

§ 36.4516 [Amended]

31. In § 36.4516, paragraph (c) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4518 [Amended]

32. Section 36.4518 is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

§ 36.4520 [Amended]

33. In § 36.4520, paragraph (b) is amended by removing "Chief Benefits Director" both times it appears and adding, in its place, "Under Secretary for Benefits".

§ 36.4600 [Amended]

34. In § 36.4600, paragraphs (g)(2) and (j) are amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

[FR Doc. 96-13855 Filed 6-3-96; 8:45 am]
 BILLING CODE 8320-01-P

POSTAL SERVICE

39 CFR Part 233

Screening of Mail Reasonably Suspected of Containing Nonmailable Firearms

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: On February 28, 1996, the Postal Service published in the Federal Register a proposed regulation outlining the treatment of mail which is reasonably suspected of being dangerous to persons or property. The rule also contains language which allows for the screening of mail reasonably suspected of containing nonmailable firearms. The proposed rule requested comments, but none were received. Consequently, the Postal Service hereby publishes this final rule.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 268-3076.

SUPPLEMENTARY INFORMATION: This document creates a new subsection 233.11 of title 39, Code of Federal Regulations, to include the requirements for the treatment of mail which is reasonably suspected of being dangerous to persons or property. This