VA Lenders Handbook (VA Pamphlet 26-7), Chapter 3, Topic 5 — Occupancy

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5. Occupancy Change Date November 8, 2012, Change 21 • Subsection c has been updated to note that Public Law 112-154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, signed August 6, 2012, expands occupancy to include dependent children. • This section has been updated to correct hyperlinks and make minor grammatical edits. a. The Law on Occupancy The law requires a veteran obtaining a VA-guaranteed loan to certify that he or she intends to personally occupy the property as his or her home. As of the date of certification, the veteran must either • personally live in the property as his or her home, or • intend, upon completion of the loan and acquisition of the dwelling, to personally move into the property and use it as his or her home within a reasonable time. The above requirement applies to all types of VA-guaranteed loans except IRRRLs. For IRRRLs, the veteran need only certify that he or she previously occupied the property as his or her home. Example: A veteran living in a home purchased with a VA loan is transferred to a duty station overseas. The veteran rents out the home. He/she may refinance the VA loan with an IRRRL based on previous occupancy of the home. b. What is a “Reasonable Time?” Occupancy within a “reasonable time" means within 60 days after the loan closing. More than 60 days may be considered reasonable if both of the following conditions are met: • the veteran certifies that he or she will personally occupy the property as his or her home at a specific date after loan closing, and • there is a particular future event that will make it possible for the veteran to personally occupy the property as his or her home on a specific future date. Occupancy at a date beyond 12 months after loan closing generally cannot be considered reasonable by VA. Continued on next page VA Pamphlet 26-7, Revised Chapter 3: The VA Loan and Guaranty 3-13 5. Occupancy, Continued c. Occupancy by Veteran’s Spouse or Dependent Child Occupancy (or intent to occupy) by the spouse or dependent child satisfies the occupancy requirement for a veteran who is on active duty and cannot personally occupy the dwelling within a reasonable time. In the case of a dependent child, the veteran’s attorney-in-fact or legal guardian of the dependent child must make the certification and sign VA Form 26-1820, Report and Certification of Loan Disbursement. Occupancy by the spouse may also satisfy the requirement if the veteran cannot personally occupy the dwelling within a reasonable time due to distant employment other than military service. In these specific cases, consult your Regional Loan Center (RLC) to determine if this type of occupancy meets VA requirements. Note: The cost of maintaining separate living arrangements should be considered in underwriting the loan. For an IRRRL, a certification that the spouse or dependent child (or children) previously occupied the dwelling as a home will satisfy the requirement. d. Occupancy Requirements for Deployed Active Duty Servicemembers Single or married servicemembers, while deployed from their permanent duty station, are considered to be in a temporary duty status and able to meet the occupancy requirement. This is true without regard to whether or not a spouse will be available to occupy the property prior to the veteran’s return from deployment. e. Occupancy After Retirement If the veteran states that he or she will retire within 12 months and wants a loan

to purchase a home in the retirement location: • Verify the veteran's eligibility for retirement on the specified date. - Include a copy of the veteran's application for retirement submitted to his or her employer. • Carefully consider the applicant's income after retirement. - If retirement income alone is insufficient, obtain firm commitments from an employer that meet the usual stability of income requirements. Note: Only retirement on a specific date within 12 months qualifies. Retirement "within the next few years" or "in the near future" is not sufficient. Continued on next page VA Pamphlet 26-7, Revised Chapter 3: The VA Loan and Guaranty 3-14 5. Occupancy, Continued f. Delayed Occupancy Due to Property Repairs or Improvements Home improvements or refinancing loans for extensive changes to the property which will prevent the veteran from occupying the property while the work is being completed, constitute exceptions to the "reasonable time" requirement. The veteran must certify that he or she intends to occupy or reoccupy the property as a home upon completion of the substantial improvements or repairs. g. Intermittent Occupancy The veteran need not maintain a physical presence at the property on a daily basis. However, occupancy "as the veteran's home" implies that the home is located within reasonable proximity of the veteran's place of employment. If the veteran's employment requires the veteran's absence from home a substantial amount of time, the following two conditions must be met: • the veteran must have a history of continuous residence in the community, and • there must be no indication that the veteran has established, intends to establish, or may be required to establish, a principal residence elsewhere. Use of the property as a seasonal vacation home does not satisfy the occupancy requirement. h. Unusual Circumstances Discuss unusual circumstances of occupancy with the appropriate VA office or submit a description of the circumstances to the VA office for prior approval. Continued on next page VA Pamphlet 26-7, Revised Chapter 3: The VA Loan and Guaranty 3-15 5. Occupancy, Continued i. The Certification The veteran certifies that the occupancy requirement is met by checking the appropriate occupancy block and signing: • VA Form 26-1802a, HUD/VA Addendum to the Uniform Residential Loan Application, at the time of loan application (prior approval loans only), and • VA Form 26-1820, Report and Certification of Loan Disbursement, at the time of loan closing (all loans). This satisfies the lender's obligation to obtain the veteran's occupancy certification. The lender may accept the occupancy certification at face value unless there is specific information indicating the veteran will not occupy the property as a home or does not intend to occupy within a reasonable time after loan closing. Where doubt exists, the test is whether a reasonable basis exists for concluding that the veteran can and will occupy the property as certified. Contact the appropriate VA office if the lender cannot resolve issues involving the veteran's intent by applying this test. VA Pamphlet 26-7, Revised Chapter 3: The VA Loan and Guaranty 3-16

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