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PERMANENT ADMINISTRATIVE ORDER

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DEPARTMENT OF VETERANS' AFFAIRS

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RULES:
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AMEND: 274-021-0005

RULE TITLE: Foreclosed and Deeded Property

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes provisions for foreclosed and deeded properties

RULE TEXT:
(1) When the Department sells a property acquired under ORS 407.135 and 407.145(1), the sale will be conducted under the provisions in ORS 407.375 and the following terms:
(a) The Department must first offer the property by sealed bid.
(b) The Department must advertise and give notice of the sale of the property in the local newspaper. at least once during the 15 days prior to the bid opening.
(c) The notice shall advise prospective buyers of the following:
(A) Of all the bidders who are veterans for a home loan, the veteran who submits the highest bid shall be given the opportunity to purchase the property for the amount of a higher bid submitted by a person who is not a veteran and must submit a matching bid in writing no later than 5:00 p.m. on the date and at the place specified in the notification;
(B) The opportunity to submit a matching bid is only available to a veteran purchasing the property solely in his or her own name, or with a lawful spouse;
(C) If the highest bid by a non-veteran is not matched by an eligible veteran, the highest bid will be accepted; and
(D) State the minimum bid that will be accepted.
(2) When the Department sells a property acquired under ORS 407.135 and 407.145(1), the sale will be conducted under the provisions of ORS 407.377and under the following terms:
(a) The person with whom the Department has entered into a personal services contract to sell the property must post a "for sale" sign on the property; and
(b) The property must be advertised for sale at least once in a newspaper of general circulation where the property is located.

(3) The Director will determine interest rates for contract sales of ODVA properties and may apply different rates of interest to different contract sales. The Director may consider factors when determining contract interest rates, including, but not limited to:
(a) The current value of funds;
(b) The projected value of funds;
(c) The solvency of the Department's Loan Program;
(d) The rates' effect on veterans and other purchasers;
(e) Any federal tax law restrictions;
(f) Actual or projected conventional mortgage rates;
(g) The availability of lendable funds;
(h) Actual or projected demand for ODVA properties;
(i) The source(s) of funds; and
(j) Whether or not the purchaser is providing any approved "work equity" as part of the down payment on the contract.
(4) The Director may change the prescribed rates of interest from time to time.
(5) The Department will endeavor to record prescribed interest rates as reasonably as it is practical.
(6) After the original purchase from the State of Oregon, each time ownership of the property is transferred to anyone (veteran or nonveteran), other than the surviving spouse, unremarried former spouse, surviving child, or surviving stepchild of the owner, the interest rate from the date of such transfer shall be the same as the then-prevailing interest rate under subsection (3)(a) of this section, or the existing interest rate on the contract, whichever is higher;
(7) The Director may modify the terms of the contract if agreeable to all parties.
(8) Each property will be sold on contract unless the Director finds that in a particular transaction it would be in the best interest of the Department that the property be sold on a Deed of Trust, or for cash. The terms of all sales will be as follows:
(a) Length:
(A) The maximum length of the contract will be established by the purchase price, as follows:
(i) $63,000 and over — 30 years;
(ii) $35,000–$62,999.99 — 25 years;
(iii) $15,000–$34,999.99 — 20 years;
(iv) $10,000–$14,999.99 — 10 years;
(v) Under $10,000 — 0 years (Cash Out Only).
(B) The Director may enter into a contract with terms different from the ones prescribed in this rule if the provisions of ORS 407.375(6) apply (no satisfactory bid received and sale negotiated).
(b) Down Payment:
(A) The term “purchase price" as used in this rule shall mean the actual purchase price agreed to by the purchaser and the Director;
(B) The minimum down payment required will be established by whether the property will be owner-occupied, whether the property is classified as farm, residential, personal property, unique, unusual, or bare land, the asking price and the purchase price, as follows:
(i) Residential — Asking price less than $80,000 — Five percent down payment if owner-occupied, otherwise 15 percent down payment. In cases where the purchase price is different than the asking price, the percentage (five or 15) will be applied to the purchase price;
(ii) Farm, Manufactured Home with Land, Bare Land, Residential — Asking price $80,000 or more — 10 percent down payment if owner-occupied, otherwise 20 percent down payment. In cases where the purchase price is different than the asking price, the percentage (10 or 20) will be applied to the purchase price;
(iii) Personal Property Manufactured— 20 percent down payment if owner-occupied, otherwise 30 percent down payment;
(iv) Unique or Unusual Property — The required down payment will be stated on the property description sheet in an

amount or percentage determined by the Director.
(9) A purchase of property from the Oregon Department of Veterans' Affairs will not be considered a loan under ORS 407.205.
(10) All purchasers must meet the department's repayment ability requirements.
(11) If a prospective purchaser submits more than one bid for the same property, only the highest such bid will be considered.
(12) The property will not be sold on contract to anyone who had an interest in the property at the time foreclosure action was commenced or a deed-in-lieu of foreclosure was accepted.
(13) A purchaser who states that he or she will be occupying the property in order to pay a lesser percentage of down payment or to receive approval of work equity must:
(a) Occupy the property within 60 days after the sale closes; and
(b) Continuously occupy the property as his or her principal primary residence for a period of not less than 365 days from the date of closing or initial occupancy, whichever is later.
(14) In the event purchaser fails to occupy the property as stated, the Director may require cash payment of an additional down payment. The required additional down payment will be the amount the purchaser would have been required to pay if the property had been purchased as nonowner-occupied, less any cash down payment received at closing.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-025-0010

RULE TITLE: Purpose and Objectives

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes purposes and definitions f.or division 25

RULE TEXT:

This Division 25 is established to administer and enforce ORS 407.075 through 407.595. Where context allows, the provisions of Divisions 20, 21, and 22, apply equally to the loans originated after April 1, 1990. The loans originated under this Division 25 are known as the " Veterans' Loan Program 1990" means all ODVA home loans originated after April 1, 1990, except financed contract sales of Department-owned properties.

(1) As used in this Division 25: (1) "Acquisition" means the purchase of a home.

(2) "Agreement" means the contract between the Department and the approved lender, setting forth the terms and conditions under which program loans made by the approved lender will be purchased by the Department.

(3) "ALTA Mortgagee's Title Insurance" means a title insurance policy issued in American Land Title Insurance form by a title insurer licensed by the State of Oregon

(4) "Approved Lender" means any "Lending Institution" as defined in ORS 407.177(8) that has entered into an agreement with the Department to originate residential loans or to act as a conduit for the origination of residential loans that are acceptable to ODVA. In determining whether or not to contract with a Lending Institution, the Department may consider factors including, but not limited to;

(a) The Department’s need for additional Approved Lenders, either on a statewide basis or in a specific geographical area.

(b) Whether the Lending Institution has had any complaints filed against it or against any of its employees, agents, officers, Directors, owners, or affiliates through the Consumer and Business Services Department of the State of Oregon, through any other regulatory agency or otherwise.

(c) Whether representatives of the Lending Institution have attended any ODVA-sponsored training.

(d) The reputation of the Lending Institution, including its employees, agents, officers, Directors, owners or affiliates.

(e) The number and experience of Lending Institution employees and other personnel available to originate loans or to act as a conduit for the origination of residential loans acceptable to the Department.

(f) Status and character of the institution's loan policies and procedures.

(g) The financial capability of the Lending Institution to originate loans or to act as a conduit for the origination of loans.

(h) The Lending Institution's qualification as a loan originator that is duly registered with the National Mortgage Licensing Service (NMLS).

(i) Whether the deposits of the Lending Institution are insured by FDIC or some other federal agency or corporation.

(j) The experience, efficiency and performance of the Lending Institution in the area of residential lending and any other area of the Lending Institution's business.

(k) The willingness and commitment of the Lending Institution to accept and to fulfill the terms of a proposed contract with the Department.

(l) The result of any reference checks conducted by the Department.

(5) "Commitment" means a promise made by the Department to an Approved Lender, evidenced by a written commitment letter, setting forth the terms upon which the Department will purchase or accept by underwriting and closing a specific program loan made or processed by the Approved Lender pursuant to a commitment request, or commitments to make an individual loan to a qualified veteran.

(6) "Commitment Request" means a verbal or written request from an Approved Lender to the ODVA to purchase or accept for underwriting and closing a specific program loan.

(7) "Department" means the Oregon Department of Veterans’ Affairs established under ORS 406.005.

(8) “Director” means the means Director of the Oregon Department of Veterans' Affairs.

(9) "Home" means a residential structure, including a manufactured home or a condominium unit, which is established,

maintained and used primarily as a principal residence by a veteran, and includes real property connected to a residential structure, including any long-term leasehold and any outbuildings.
(10) “Manufactured home” means a structure that is:
(a) At least 20 feet in width;
(b) Constructed for movement on the public highways and that has sleeping, cooking and plumbing facilities;
(c) Intended for human occupancy;
(d) Being used for residential purposes;
(e) Classified and taxed as real property in the county where the structure is located; and constructed in accordance with the Oregon Manufactured Dwelling Installation Specialty Code adopted under ORS 446.155 or the Model Manufactured Home Installation Standards established by the Department of Housing and Urban Development.
(11) “Mortgage” means a loan in which real property is used as collateral.
(12) "Lending Institution" means an entity which is licensed, or otherwise legally authorized, to conduct business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans and that, in the judgment of the Department, is capable of meeting the needs of the Department in carrying out the purposes of ORS Chapter 407. In determining whether or not an entity that is licensed or otherwise legally authorized to conduct business in Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans is capable of meeting the needs of ODVA in carrying out the purposes of ORS Chapter 407, ODVA may consider factors including, but not limited to the following:
(a) Whether or not the entity qualifies as a "Banking Institution" or similar entity including, but, not limited to an "Extranational Institution," a "Federal Bank," a "Federal Savings Bank," or a "Financial Institution" under ORS 706.005, 706.008, 707.744, or 723.042.
(b) Whether or not the entity qualifies as a "mortgage broker" under ORS 59.840 through 59.980 for a period of three years.
(c) Whether or not the representatives of the entity have attended any ODVA-sponsored training.
(d) The reputation of the entity or of any of its employees, agents, officers, Directors, affiliates or owners.
(e) The financial capability of the entity to originate loans or to act as a conduit for the origination of loans.
(f) The entity's qualification as a loan originator that is duly registered with the National Mortgage Licensing Service (NMLS).
(g) The experience, efficiency, and performance of the entity in the areas of residential lending and any other area of the entity's business
(13) "Loan Origination Guide/Mortgage Loan Origination Guide" means the manual containing the origination instructions for the Veterans' Loan Program 1990, and any subsequent changes as they are effected.
(14) "ODVA" means the Oregon Department of Veterans' Affairs established under ORS 406.005.
(15) "Qualified Insurer" means a private mortgage insurance company licensed to do business in this state and that has entered into a master policy agreement with the Department.
(16) “Resides in the State of Oregon” means a person who:
(a) Maintains a primary legal residence in Oregon, or
(b) Intends to occupy a home in Oregon that will be secured by an ODVA loan a primary legal residence.
(17) "Security" means all of the real property that is to be acquired for a home and which serves as collateral for the loan.
(18) “Trust deed” means a deed, executed in conformity with ORS 86.705 to 86.815, that conveys an interest in real property to a trustee in trust to secure the performance of an obligation the grantor or other person named in the deed owes to a beneficiary.
(19) "Veteran" means a person who:
(a) Resides in the State of Oregon at the time of applying for a loan from the fund;
(b) Is a veteran, as that term is defined by Oregon law in ORS 407.087;
(c) Served under honorable conditions on active duty in the Armed Forces of the United States; and
(d) Satisfies the requirements applicable to the funding source for the loan from the Oregon War Veterans' Fund.

(20) "Veterans' Loan Program 1990" means all ODVA home loans originated after April 1, 1990, except financed contract sales of Department-owned properties.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0001

RULE TITLE: Definitions for OAR 274-045-0001 to 274-045-0481

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Definitions for division 45.

RULE TEXT:

As used in this Division 45:

(1) "Acquisition" means the purchase of a home.

(2) "Agreement" means the contract between the Oregon Department of Veterans' Affairs (ODVA) and the approved lender, setting forth the terms and conditions under which program loans made by the approved lender will be purchased by the ODVA.

(3) "ALTA Mortgagee's Title Insurance" means a title insurance policy issued in American Land Title Insurance form by a title insurer licensed by the State of Oregon.

(4) "Approved Lender" means any "Lending Institution" as defined in ORS 407.177(8) that has entered into an agreement with ODVA to originate residential loans acceptable to ODVA or to act as a conduit for the origination of residential loans acceptable to ODVA. In determining whether or not to contract with a Lending Institution, ODVA may consider factors including, but not limited to the following:

(a) ODVA's need for additional Approved Lenders, either on a statewide basis or in a specific geographical area,

(b) Whether or not the Lending Institution has had any complaints filed against it or against any of its employees, agents, officers, Directors, owners, or affiliates through the Consumer and Business Services Department of the State of Oregon, through any other regulatory agency or otherwise.

(c) Whether or not representatives of the Lending Institution have attended any ODVA-sponsored training.

(d) The reputation of the Lending Institution, including its employees, agents, officers, Directors, owners or affiliates.

(e) The number and experience of Lending Institution employees and other personnel available to originate loans or to act as a conduit for the origination of residential loans acceptable to ODVA.

(f) Status and character of the institution's loan policies and procedures.

(g) The financial capability of the Lending Institution to originate loans or to act as a conduit for the origination of loans.

(h) The Lending Institution's qualification as a loan originator or a seller/servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the United States Department of Veterans' Affairs.

(i) Whether or not the deposits of the Lending Institution are insured by FDIC or some other federal agency or corporation.

(j) The experience, efficiency and performance of the Lending Institution in the area of residential lending and any other area of the Lending Institution's business.

(k) The willingness and commitment of the Lending Institution to accept and to fulfill the terms of an ODVA proposed contract.

(l) The result of any references which are checked as part of the application process.

(5) "Commitment" means a promise made by the ODVA to an Approved Lender or veteran, evidenced by a written commitment letter, setting forth the terms upon which the ODVA will purchase, originate, or accept by underwriting and closing a specific program loan made or processed by the Approved Lender or ODVA pursuant to a reservation of funds.

(6) "Department" means the Oregon Department of Veterans' Affairs established under ORS 406.005.

(7) "Director" means the means Director of the Oregon Department of Veterans' Affairs.

(8) "Home" means a residential structure, including a manufactured home or a condominium unit, which is established, maintained and used primarily as a principal residence by a veteran, and includes real property connected to a residential structure, including any long-term leasehold and any outbuildings.

(9) "Lease" means the giving of possession and use of profits of secured property for a period of time in return for compensation.

(10) "Lease Option" means a lease of real property with an option to purchase the property within a stipulated period of time.
(11) "Lending Institution" means an entity which is licensed, or otherwise legally authorized, to conduct business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans and that, in the judgment of ODVA, is capable of meeting the needs of ODVA in carrying out the purposes of ORS Chapter 407. In determining whether or not an entity that is licensed, or otherwise legally authorized, to conduct business in Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans is capable of meeting the needs of ODVA in carrying out the purposes of ORS Chapter 407, ODVA may consider factors including, but not limited to the following:
(a) Whether or not the entity qualifies as a “Banking Institution” or similar entity including, but, not limited to an “Extranational Institution,” a “Federal Bank,” a “Federal Savings Bank,” or a “Financial Institution” under ORS 706.005, 706.008, 707.744, or 723.042.
(b) Whether or not the entity qualifies as a “mortgage broker” under ORS 59.840 through 59.965 for a period of three years.
(c) Whether or not the representatives of the entity have attended any ODVA-sponsored training.
(d) The reputation of the entity or of any of its employees, agents, officers, Directors, affiliates or owners.
(e) The financial capability of the entity to originate loans or to act as a conduit for the origination of loans.
(f) The entity’s qualification as a loan originator or a seller/servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the United States Department of Veterans Affairs.
(g) The experience, efficiency, and performance of the entity in the areas of residential lending and any other area of the entity’s business.
(12) "Loan Origination Guide/Mortgage Loan Origination Guide" means the manual containing the origination instructions for the Post Vietnam Era Veterans' Home Loan Program, and any subsequent changes as they are effected.
(13) "Loan to Value Ratio" is the loan amount or balance divided by the net appraised value.
(14) “Manufactured home” means a structure that is:
(a) At least 20 feet in width;
(b) Constructed for movement on the public highways and that has sleeping, cooking and plumbing facilities;
(c) Intended for human occupancy;
(d) Being used for residential purposes;
(e) Classified and taxed as real property in the county where the structure is located; and
(f) Constructed in accordance with the Oregon Manufactured Dwelling Installation Specialty Code adopted under ORS 446.155 or the Model Manufactured Home Installation Standards established by the Department of Housing and Urban Development.
(15) "Net Appraised Value" means the lesser of the appraised value or the purchase price. The "appraised value" is the value established by an appraisal obtained by or at the direction of the Department, or an appraisal approved by the Department
(16) "ODVA" means the Oregon Department of Veterans' Affairs established under ORS 406.005.
(17) "Post Vietnam Era Veterans’ Home Loan Program " means all home loans originated under this Division.
(18) "Qualified Insurer" means a private mortgage insurance company licensed to do business in Oregon and with which ODVA has agreed to accept mortgage insurance coverage. When an ALTA mortgagee's title insurance policy is in force insuring the State against the usual losses covered by an ALTA policy as well as any loss from any prior encumbrance, and the encumbrance is acceptable to both the veteran and ODVA.
(19) "Rent" means the giving of possession of secured property for occupancy for a specific period of time in return for a stipulated amount of compensation.
(20) "Reservation of Funds" (Rate Lock) means the setting aside of specific funds at a designated interest rate for a specific period of time.
(21) “Resides in the State of Oregon” means a person who:
(a) Maintains a primary legal residence in Oregon, or

(b) Intends to occupy a home in Oregon, secured by an ODVA loan, that will be their primary legal residence.
(22) "Security" means all of the real property that is to be acquired for a home and which serves as collateral for the loan.
(23) "Transfer" means a change of ownership, either by operation of law, act of the parties, or both, such as deed, contract, certificate, court decree, property settlement, foreclosure, easement, condemnation, or adverse possession of the premises.
(24) "Underwriter/Designated Loan Officers" means those employees of ODVA whose paramount responsibility shall be the approval or rejection of all applications for loans.
(25) “Veteran” means a person who:
(a) Resides in the State of Oregon at the time of applying for a loan from the fund;
(b) Is a veteran, as that term is defined by Oregon law in ORS 407.087;
(c) Served under honorable conditions on active duty in the Armed Forces of the United States; and
(d) Satisfies the requirements applicable to the funding source for the loan from the Oregon War Veterans' Fund.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0040

RULE TITLE: Security for the Loan

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describe security that may be used for the home loan.

RULE TEXT:

(1) The veteran shall own the home offered as security in fee simple at the time the loan is closed.

(2) The State shall have the first lien on the security at the time of making the loan.

(3) The security for the loan shall consist of real property and the mortgage or trust deed shall include all property to be acquired as a home. More than one parcel of real property may be included in the security.

(4) All security must include a home that is completed and ready for occupancy.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0060

RULE TITLE: Terms of Loan

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes the terms of the home loan.

RULE TEXT:

(1) The maximum amount allowed for a loan may not exceed the least of:

(a) The maximum original principal balance permitted on a single-family first mortgage loan by the Federal Housing Finance Agency.

(b) The maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans' Affairs for its Home Loan Guaranty Program (38 U.S.C 3701 et seq.; 38 C.F.R part 36).

(2) When calculating the maximum amount allowed for a loan, the Department of Veterans' Affairs shall exclude:

(a) Funds disbursed under ORS 407.145 (2) and 407.275 (4); and

(b) The amount of a loan that has been repaid, or for which the property securing the loan has been transferred by deed or otherwise, if the property is destroyed by fire of other natural hazard; or is taken through condemnation of lost or disposed of for a compelling reason devoid of fault on part of the applicant.

(3) An eligible person may not receive or, under ORS 407.305, assume more than four loans. The borrower shall not receive any cash back from the ODVA loan.

(4) The Director shall determine the period and amount of repayment based on the age, condition, location, and useful life of the security, but the maximum period of repayment shall not exceed statutory limits.

(a) Loans shall be made in multiples of one dollar ($1.00).

(b) Each program loan shall have a final maturity of at least 15 and not more than 40 years from the date of purchase.

(c) A loan may be amortized over a period of not more than 40 years for a home other than a manufactured home. A loan for a manufactured home may be amortized over a period not exceeding the expected life of the manufactured home, as determined by the Department of Veterans' Affairs. The limitations do not preclude the department from later extending the amortization period.

(5) The borrower shall timely pay all property taxes and other assessments that may or do become a lien against the loan security.

(6) The borrower shall carry hazard insurance on the security. The Director may also require that hazards other than fire be covered. All premiums and charges for said coverage shall be timely paid by the borrower, and

(a) The Director may determine the form and amount of insurance coverage;

(b) All insurance claims money shall be payable to ODVA under a provision in the mortgage or trust deed;

(c) In the event of failure to maintain coverage, the Director may acquire the necessary coverage and collect amounts due in a manner consistent with the mortgage or trust deed documents; and

(d) In case of loss, the Director shall determine the disposition of any and all funds received under claims submitted under the insurance policies.

(7) The Director may collect in advance, unless otherwise agreed, from said borrowers together with their payments required under section (3) of this rule, sufficient amounts to pay property taxes, hazard insurance premiums, and other charges related to the security. Such additional amounts collected by the Director shall be held in escrow pending payment of the obligations for which they are collected and interest on said amounts shall be paid to the borrower in the manner and at the rate of interest described in ORS 87.245(1).

(8) The Director may pay property taxes, hazard insurance premiums and other charges from funds collected from the borrower for those purposes. The Director, in the absence of funds collected from the borrower (or if such funds are insufficient in amount), may elect to pay property taxes, hazard insurance premiums, and other charges. Any amount paid by the Director may be collected in the manner consistent with the security documents or other manner agreeable to the Director and borrower. The Director will not add amounts advanced for payment of property taxes or hazard insurance premiums to the principal balance of the loan. On these loans, any amount advanced will be entered as a

negative balance in the escrow account.
(9) The borrower's loan payment may be increased to repay the money advanced to pay the property taxes, hazard insurance premiums, and other charges against the security, together with interest thereon, within a maximum period of 12 months or such shorter time as established by the Director.
(10) No borrower is entitled to borrow more than the maximum amount allowed under ORS 407.215 other than for reasons specified in ORS 407.205 except that when the property on which the loan was made becomes the property of the applicant's spouse as a result of a judgment declaring a marriage void or dissolved and the loan is repaid, the loan may be excluded from consideration in computing the maximum loan allowable under ORS 407.205.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0070

RULE TITLE: Interest

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes how agency determines interest rates.

RULE TEXT:
(1) The Director will prescribe interests rates for loans. In prescribing interest rates, the Director will consider the following factors:
(a) The current value of funds;
(b) The solvency of the Department's Loan Program; and
(c) The rates' effect on veterans.
(2) In prescribing interest rates, the Department also may consider factors including, but not limited to the following:
(a) The projected value of funds;
(b) Any federal tax law restrictions;
(c) Actual or projected conventional mortgage rates;
(d) The availability of funds;
(e) Actual or projected loan demand;
(f) The loan purpose; and
(g) The source(s) of funds.
(3) The Director periodically may change the prescribed rates of interest for loans to be funded by the Department to reflect reconsideration of, or changes in, factors considered under sections (1) and (2) of this rule, or in consideration of additional factors.
(4) The Director may prescribe different rates of interest for different loans, depending upon factors including, but not limited to the following:
(a) The time of an initial loan or commitment to fund a loan;
(b) The initial rate of interest on a loan;
(c) The type of loan;
(d) The status of the borrower;
(e) The status of the loan security;
(f) The perceived risk associated with the loan;
(g) Whether or not the Department agreed to maintain an interest rate commitment within a certain range or for a certain time; and
(h) Whether or not the applicant abandoned a previous loan application or loan commitment.
(5) The Department will endeavor to record prescribed interest rates as reasonably as it is practical for the Department to do so, in its Tables and Codes Manual. This publication will be available for viewing at the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, as permitted by the Department, during regular business hours.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0080

RULE TITLE: Approval of the Loan

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Provisions on loan approval

RULE TEXT:

The approval of any loan shall be dependent upon the following:

(1) The veteran applicant must meet the current industry standards determined by the Department to be applicable to the proposed loan. Applicable industry standards may include, but are not limited to:

(a) Local lending practices;

(b) FannieMae and other lending organization standards; and

(c) Federal and state legal requirements.

(2) The veteran applicant may be required to have equity in the property.

(3) Secondary financing may be permitted.

(4) Construction shall meet the minimum standards set by federal, state or local laws.

(5) A performance bond may be required for new construction.

(6) Inspections to prove the premises safe, sanitary and structurally sound may be required, and the loan may be refused if the construction is inferior.

(7) The security shall be served by adequate means of legal and physical access and shall have an acceptable potable water supply.

(8) The Director may approve a loan for the following purposes:

(a) Acquisition of a home;

(b) To refinance a construction, rehabilitation, or bridge loan within 24 months of the date of the loan; or

(c) To refinance a loan serving as a form of temporary financing that is permitted under federal tax law and acceptable to the Director.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0150

RULE TITLE: Property Tax Amortization and Escrow Accounting

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Provisions for Property Tax Amortization and Escrow Accounting

RULE TEXT:

(1) Except as otherwise provided herein, payments required on all loans shall include an amount, which represents advances, for taxes paid by the Director of Veterans' Affairs (Director) on the security. If for any reason the taxes cannot be paid on November 15th, the Director will send the notice as soon as possible after the taxes are paid.

(2) All applications, for permission to pay taxes and hazard insurance directly, will receive a written approval or disapproval from the Director. If the application is approved, the applicant will be advised of the date when the Director will discontinue making disbursements, if applicable, and the date the loan payment will be adjusted, if necessary.

(3) The Director may revoke any permission granted concerning the payment of taxes and hazard insurance on the security by giving the owner of the security 30 days written notice of the revocation, except as otherwise provided herein. If the Director advances funds to pay unpaid taxes and/or hazard insurance, any advance by the Director for such a shortage/deficiency also will constitute immediate revocation by the Director of permission for the owner to pay directly any taxes and hazard insurance due on the security, and the account will revert to the last signed agreement between the Director and borrower for the payment of taxes, hazard insurance and other obligations. Any advances by the Director, including any interest and fee, shall be paid back within the remaining payment/escrow year. The borrower may not change this obligation without prior written approval from the Director.

(4) Pursuant to the provisions of ORS 407.169, under this division, escrow accounts are available for the prepayment of estimated property taxes and hazard insurance premiums.

(5) On monthly simple interest loans with escrow accounts, the required escrow payment may be based, inter alia, on the preceding year's disbursements for such items as property taxes, hazard insurance premiums, other required insurance premiums such as mortgage insurance, and condominium or homeowner’s association dues. In cases of unassessed new construction, the estimate may be based, inter alia, on the assessment of comparable residential property in the market area.

(6) The Director will pay interest on the escrow account as provided by ORS 86.245(1) to (4).

(7) Under this Division, all escrow accounts on monthly simple interest loans will be administered in the following manner:

(a) The Director may require a cushion that shall be no greater than 1/6 of the estimated total annual disbursements from the escrow account. Estimated disbursements may be modified by an amount not exceeding the most recent year's change in the national Consumer Price Index (CPI) for all urban consumers (CPI, all items);

(b) At the end of an escrow account computation year, an aggregate analysis will be completed on each escrow account to determine the borrower's escrow account payment(s) for the new payment year. The borrower will be notified of any shortage, deficiency, or surplus in the escrow account and the amount of escrow account payment to be included in the loan payment;

(c) Except if a loan is two (2) months or more delinquent in payments, an analysis will not be done until the loan is brought current;

(d) If the analysis determines there is not sufficient money in the escrow account to pay the required disbursements, the Director may advance the shortage/deficiency. The required escrow payments on the loan will be increased to recover any interest, fee or other advance by the Director for such a shortage or deficiency, or the borrower may repay the advance, interest or fee in a lump sum;

(e) If the analysis determines there is a surplus in the escrow account equal to or greater than $25, the entire surplus shall be refunded to the borrower. If the surplus is less than $25, this amount will be retained in the escrow account and credited against the next year's escrow payments;

(f) A statement itemizing all escrow account activity, (annual escrow analysis) will be provided to the borrower each

year.
(8) The following definitions apply to section (7) above:
(a) "Aggregate analysis" means to analyze the escrow account by calculating the sufficiency of escrow funds as a whole, as opposed to calculating components separately.
(b) "Cushion" means funds that the Director may require a borrower to pay into an escrow account to cover unanticipated disbursements or disbursements made before the borrower's payments are available in the account.
(c) "Deficiency" means the amount of a negative balance in an escrow account.
(d) "Escrow account" means any account that the Director establishes or controls on behalf of a borrower to pay taxes, insurance premium, or other charges, as applicable.
(e) "Escrow account computation year" means a 12-month period that the Director establishes for the escrow account.
(f) "Shortage" means an amount by which a current escrow account balance falls short of the target balance at the time of escrow analysis.
(g) "Surplus" means an amount by which the current escrow account balance exceeds the target balance of the account.
(h) "Target balance" means the estimated month end balance in an escrow account that is just sufficient to cover the remaining disbursements from the escrow account in the escrow account computation year, taking into account the remaining scheduled periodic payments, and a cushion.
[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0220

RULE TITLE: Fees

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Fee provisions

RULE TEXT:

(1) The Director of Veterans' Affairs (Director) imposes fees for the following:

(a) New Loan.

(b) Partial Release, Easement, and Modification of Mortgage.

(c) Dishonored Check.

(d) Reissue of Stale, Lost, Destroyed or Missing Document.

(e) Mineral Rights and Geothermal Resource Rights Release.

(f) Borrower requests to cancel private mortgage insurance.

(g) Dishonored Electronic Funds Transfer.

(2) The fee will not be waived or reduced except when in the Director's opinion, requiring the fee would cause an undue hardship. In the case of a dishonored check, the fee will be waived if the check was dishonored because of a bank error.

(3) Fee Schedule:

(a) New Loan Fees.

(A) A credit report fee may be charged in an amount not to exceed the amount charged by the credit-reporting firm. A credit report fee may be charged for each applicant unless a co-applicant is the applicant's spouse.

(B) An appraisal report fee may be charged in an amount not to exceed the amount charged by the appraiser or actual cost.

(C) In the event of cancellation of the application after acceptance for processing and collection of credit report and appraisal fees, any money not used or obligated for credit reports or appraisals shall be refunded to the borrower.

(D) The loan fee will not exceed two percent (2%) of the loan amount;

(E) Flood determination fee for each loan may be charged in an amount not to exceed the amount charged by the flood determination company;

(F) A processing fee in the amount of $600 will be charged for processing, document preparation, or other services.

(b) Partial Release, Easement, and Modification of Mortgage Fees:

(A) $450 plus the cost of an appraisal for a partial release or modification of mortgaged property. The appraisal fee will be refunded to the applicant if the request is withdrawn before the Director is obligated to an appraiser for the cost of a property appraisal.

(B) $50 for consenting to an easement.

(C) $100 for partial release involving release of a manufactured home that will be replaced with another home.

(D) $1,100 for a partial release involving release of water rights. $1,000 of the $1,100 fee will be refunded if the request is withdrawn before the Director is obligated to an appraiser for the cost of a property appraisal.

(E) A larger fee may be charged in complex cases to cover extra processing costs.

(F) A fee for the partial release of property to a government entity for public use as noted in Chapter 238 Oregon Laws 1995. This fee may be modified or waived at the discretion of the Director.

(c) Dishonored Check Fee. Whenever a bank check issued in payment of an obligation due to the Director of Veterans' Affairs is dishonored by the bank upon which the check is drawn, a fee in the amount of $25 will be charged. If two dishonored checks are received from the same borrower within a 12-month period, the Director may require this borrower to make all future payments by cash, money order, cashier's check or certified check;

(d) Reissue of Stale, Lost, Destroyed or Missing Document Fee. Whenever a document issued by the Director must be reissued because it has been outstanding too long without being used, or has been lost, destroyed or for some other reason is missing, a fee in the amount of $50 may be charged for this service. "Document" means deed, satisfaction of mortgage, satisfaction of judgment, request for reconveyance, reconveyance, assumption agreement, contract, partial

release, modification of mortgage, escrow closing papers (or some other document substantially the same as the ones enumerated). This fee may be waived if there is good reason to believe that the person requesting the reissue was not responsible for the delay that caused the document to become stale or for the disappearance of the original issue;
(e) Release of Mineral Rights and Geothermal Resource Rights Fees. The Director may charge a fee of $150 for processing an application for release of mineral and geothermal resource rights. From this fee, ODVA will pay the cost of recording any document issued. An additional $100 may be charged if the nature of the application requires a review by the Division of State Lands to determine the mineral and geothermal resource potential. A check or money order in the amount of $100 made payable to the Division of State Lands will be required when the Division of State Lands review is necessary.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0230

RULE TITLE: Approved Lenders

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Provisions on approved lenders

RULE TEXT:

(1) Any lending institution, as defined in ORS 407.177(8) may apply to become an Approved Lender by submitting to the Director of Veterans' Affairs (Director) information required by the Director which may include, but is not limited to the following for review:

(a) An application in the form prescribed by the Director, including a certificate of compliance with tax laws;

(b) Its counsel's opinion regarding power and authority of the lending institution to enter into a purchase agreement with the Director;

(c) A list of authorized officers;

(d) Its most recent, audited financial statements;

(e) Financial Statement of Condition (Balance Sheet) for the last two fiscal years and Profit and Loss Statement;

(f) Resumes of principal officers and key employees;

(g) Company biography and background;

(h) Signed and executed broker agreement;

(i) Resolution of the Board of Directors/Certificate of Authorized Signatures;

(j) Articles of Incorporation (if incorporated);

(k) Signed Credit Release Authorization;

(l) Applicable licenses as required by state and local law;

(m) Explanation of Quality Control Procedures;

(n) W-9;

(o) Any other documentation or information deemed necessary by the Director;

(p) A credit report fee may be charged to the mortgage broker as part of the approved lender application process in an amount not to exceed the amount charged by the credit-reporting firm. Any funds not used or obligated for a credit report shall be refunded.

(2) A lending institution will qualify as an Approved Lender if the Director determines that the applicant has the capability and resources to originate only or originate, underwrite and fund loans in a sound and professional manner. The Director shall consider such factors as those itemized in 274-045-0001(4)(a) through (l).

(3) To become an Approved Lender, a lending institution shall enter into an agreement with the Director, providing for the manner and terms of the sale or processing of loans. This agreement shall be in the standard form prescribed by the Director. Approved Lenders shall carry out such agreement in accordance with the procedures set forth in the agreement, the rules, and the Post Vietnam Era Veterans' Home Loan Origination Guide/Mortgage Brokers Loan Origination Guide. The Director may revise such procedures from time to time. The Director may terminate its agreement with an Approved Lender at any time on the terms and conditions stated in such agreement, the rules, or the Post Vietnam Era Veterans' Home Loan Origination Guide/Mortgage Brokers Loan Origination Guide.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407. 385; Oregon Constitution Article XI-A, Section 3.

AMEND: 274-045-0240

RULE TITLE: Loan Requirements

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Eligibility requirements for home loans

RULE TEXT:

(1) To be eligible for purchase or underwriting and closing by the ODVA pursuant to a commitment to an approved lender, a program loan shall be made or processed by the approved lender during the period of that commitment. The loan shall comply with the terms of such commitment, the requirements set forth in the agreement between ODVA and the approved lender, and the conditions set forth in the rules and the Post Vietnam Era Veterans' Home Loan Origination Guide/Mortgage Brokers Loan Origination Guide.

(2) Each Approved Lender shall make loans for single-family dwellings.

(3) Each program loan shall have a final maturity of at least 15 years and not more than 40 years from the date of its mailing.

(4) Each program loam shall be secured by a first lien mortgage or trust deed. The veteran shall hold title to the home in fee simple.

(5) No program loan shall be made to refinance an existing construction or rehabilitation loan, unless such loan was considered temporary financing. If a program loan is made to refinance such a loan, the approved lender shall certify to Oregon Department of Veterans' Affairs that the construction or rehabilitation has be satisfactorily completed before the delivery of the program loan for purchase.

(6) Each program loan shall be executed on forms approved by the ODVA. Such forms shall prescribe program loan requirements regarding insurance, escrow payments, late charges, defaults, and similar matters.

(7) The ODVA shall require that program loans be subject to acceleration at the option of the ODVA if at any time the veteran does not reside in the home as his/her primary residence, or if the veteran is determined to have been ineligible at the time the program loan was made.

(8) The interest rate on each program loan shall be at the rate stated in the applicable commitment issued by the ODVA.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0250

RULE TITLE: Reservation of Funds and Commitments

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Provisions on reservation of funds and commitments

RULE TEXT:

ODVA reserves funds for individual loans in the name of the veteran upon request from an Approved Lender or from authorized ODVA staff. ODVA may solicit applications and accept loan fund reservations from Approved Lender(s) subject to the terms of the appropriate agreements, and the rate and availability of funds.

(1) ODVA will reserve funds for applications at the time of:

(a) Acceptance of application for processing by ODVA; or

(b) A verbal or written request from an Approved Lender that an application for funding is being processed.

(2) When ODVA reserves funds, an interest rate will be committed to this reservation and will be effective for a period of 60 days. The loan must be closed before the end of 60 days or the committed interest rate will expire. If the reservation is reissued, will bear an interest rate at the higher of the expired/cancelled rate or the then-current interest rate at the time of reissue. If a veteran withdraws an application and subsequently re-applies for a loan on the same security, the "higher of" rule will apply for a period of 120 days from the date of withdrawal.

(3) If the loan is not presented to ODVA for purchase with all documentation in place within 90 calendar days of the final HUD-1 settlement date, ODVA may charge the Approved Lender a fee of one basis point of the loan amount per calendar day, until loan is approved for purchased.

Example: $150,000 loan closed and presented for purchase 120 calendar days after settlement date. The fee charged and deducted from the amount due to the Approved Lender is calculated as follows: $150,000 x .01% x 30 days = $450.

(4) The commitment letter to the Approved Lender will contain the following information:

(a) The dollar amount of the commitment;

(b) The interest rate for the loan;

(c) The term of the loan;

(d) The mortgage insurance or guarantee required, if any;

(e) The period of time during which the ODVA will purchase the loan;

(f) The veteran who will be the borrower;

(g) The property identification (i.e., property address);

(h) Any additional information or conditions the ODVA considers appropriate in the commitment.

(5) The ODVA will promptly notify Approved Lenders when it will not accept a commitment request, for whatever reasons.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-045-0471

RULE TITLE: Taxes, Hazard Insurance and Flood Insurance

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Provisions on Taxes, Hazard Insurance and Flood Insurance

RULE TEXT:

If delinquent taxes become a lien against the security, or the borrower fails to maintain the required insurance, the Director may pay the taxes or insurance and if so paid, will collect the amount paid by ODVA from the borrower through an escrow account per the provisions of OAR 274-045-0150.

STATUTORY/OTHER AUTHORITY: ORS 406.005 & 407.115

STATUTES/OTHER IMPLEMENTED: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3