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DIVISION 1

PROCEDURAL RULES

274-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Director of Veterans' Affairs shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.

(2) By mailing a copy of the notice to the following persons, organizations, or publications at least 28 days before the effective date:

- (a) Associated Press;
- (b) Advisory Committee to the director;
- (c) Oregon Department of Veterans' Affairs' mailing list in accordance with ORS 183.335(7);
- (d) Legislative Counsel; and
- (e) Legislators designated in ORS 183.335(14).

Stat. Auth.: Ch. 602, OL 1997, ORS 183, ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.275, ORS 407.305 & ORS 407.375

Stats. Implemented: Ch. 602, OL 1997, ORS 183, ORS 406.030, ORS 406.040, ORS 407.115, ORS 407.177, ORS 407.275, ORS 407.315 & ORS 407.375

Hist.: DVA 44, f. & ef. 12-1-75; DVA 1-1982, f. 1-15-82, ef. 2-1-82; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 11-1993, f. 12-20-93, cert. ef. 12-22-93; DVA 4-1996, f. & cert. ef. 7-22-96; DVA 4-1997, f. & cert. ef. 10-22-97

274-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Director of Veterans' Affairs adopts the "Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure" date September 15, 1997. A copy of this manual is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Veterans' Affairs.]

Stat. Auth.: ORS 183.341 & ORS 406

Stats. Implemented: ORS 406, ORS 407 & ORS 408

Hist.: DVA 41, f. 12-1-71, ef. 12-15-71; DVA 43, f. 10-22-73, ef. 11-11-73; DVA 46, f. & ef. 4-20-76; DVA 1-1978, f. & ef. 4-20-78; DVA 2-1980, f. & ef. 5-16-80; DVA 9-1981, f. & ef. 11-19-81; DVA 12-1983, f. & ef. 10-7-83; DVA 3-1986, f. & ef. 2-18-86; DVA 5-1988, f. & cert. ef. 10-27-88; DVA 4-1990, f. 7-13-90, cert. ef. 8-20-90; DVA 8-1991, f. & cert. ef. 12-3-91; DVA 4-1996, f. & cert. ef. 7-22-96; DVA 4-1998, f. & cert. ef. 3-26-98

DIVISION 5

PERSONAL SERVICE CONTRACTS

274-005-0020

Policy

The Oregon Department of Veterans' Affairs (ODVA) will contract for services only when the work cannot be done in a reasonable time with the ODVA's own work force; when it will be less expensive to contract for the work; when the required skills are not available within the ODVA; or when an impartial opinion is required. The selection of the most qualified contractor will be based on, but not limited to, cost, the contractor's demonstrated capabilities, experience, and project approach. Efforts will be made to encourage disadvantaged and emerging small businesses,

minorities, and women to submit proposals.

Stat. Auth.: ORS 279.051, ORS 291.021, ORS 406.030 & ORS 407.115
 Stats. Implemented: ORS 279.051, ORS 279.712, ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177, ORS 407.179, ORS 407.181, ORS 407.275, ORS 407.377, ORS 407.465 & ORS 408.360
 Hist.: DVA 19-1982, f. & ef. 8-16-82; DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92; Renumbered from 274-005-0005; DVA 5-1996, f. & cert. ef. 7-22-96

274-005-0030

Informal Process (\$25,000 and Under)

(1) When the amount of the contract will be equal to or less than \$25,000, the Oregon Department of Veterans' Affairs (ODVA) may use an informal selection process. Under this process the ODVA may solicit qualifications or proposals in writing or by telephone, from a minimum of three prospective contractors and immediately select the most qualified contractor.

(2) The ODVA may make immediate and direct appointments whenever conditions require prompt action to protect loss of life or property.

Stat. Auth.: ORS 279.051, ORS 291.021, ORS 406.030 & ORS 407.115
 Stats. Implemented: ORS 279.051, ORS 279.712, ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177, ORS 407.179, ORS 407.181, ORS 407.275, ORS 407.377, ORS 407.465 & ORS 408.360
 Hist.: DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92; DVA 5-1996, f. & cert. ef. 7-22-96

274-005-0040

Formal Process (Over \$25,000)

(1) Except under subsection (3)(b) and section (4) of this rule, the Director of Veterans' Affairs (director) shall make a public announcement to obtain a list of contractors interested in providing professional services to the director. The director will request statements of qualifications or proposals, or both, for either single projects or groups of projects. The announcement will be made in trade periodicals and/or newspapers of general circulation, and electronically through the Department of Administrative Services on-line Vendor Information Program (VIP) and may include the following:

- (a) Description of project type(s);
 - (b) Typical project(s) scope;
 - (c) Anticipated project start and completion dates;
 - (d) Any special requirements;
 - (e) Closing date by which statements of interest and qualifications must be received; and
 - (f) Evaluation criteria and selection procedure.
- (2) Initial screening:
- (a) The director shall establish an evaluation committee. The committee shall, for each proposed project, evaluate statements of qualifications and performance data. The committee shall evaluate each firm on areas including, but not limited to:
 - (A) Approach to the project;
 - (B) Capability;
 - (C) Credentials;
 - (D) Experience;
 - (E) Performance data (when applicable); and
 - (F) Proposed project cost.
 - (b) Based on the established evaluation criteria, the committee shall select, in order of preference, a list of at least three firms (short list) deemed to be most highly qualified to provide the required services;

(c) The evaluation committee will interview the short listed firms and make a recommendation to the director on which one should be hired. When a proposal is requested, the evaluation committee may elect to eliminate the interview step and recommend the most qualified firm to the director.

(3) Final Selection:

(a) The director or designee shall select the most qualified firm and negotiate a contract with that firm. In making the final selection, the director shall consider the estimated value of the services to be rendered, the project scope, and complexity:

- (A) Should the director be unable to negotiate a satisfactory

contract with the firm considered to be the most qualified, negotiations with that firm will be formally terminated. The director will then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the director will terminate negotiations. The director will then undertake negotiations with the third most qualified firm.

(B) Should the director be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section until an agreement is reached or a decision not to contract for professional services is made.

(b) When the director determines that only one firm exists that is capable of performing the required services, within the required time frame, the director may negotiate a sole source contract with that firm. "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required. A sole source designation eliminates the necessity for a selection process.

(4) Special Services. In cases where the service needed is one performed only by a specialized group such as Bond Counsel, Financial Advisors, Certified Public Accountants, and other similar specialties and a list of qualified persons, companies, or firms interested in providing this service is maintained by a state or federal agency, a company specializing in maintaining such a list, or is available from another source, the director may obtain and use such a list in lieu of making a public announcement. The director may also include on any such list persons, companies, or firms known by the director to be interested or qualified to provide the needed services. The director will utilize the process set out in sections (2) and (3) of this rule to select the contractor.

Stat. Auth.: ORS 279.051, ORS 279.712, ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177, ORS 407.179, ORS 407.181 & ORS 407.275
 Stats. Implemented: ORS 279.051, ORS 279.712, ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177, ORS 407.179, ORS 407.181, ORS 407.275, ORS 407.377, ORS 407.465 & ORS 408.360
 Hist.: DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93; DVA 5-1996, f. & cert. ef. 7-22-96

274-005-0050

Contract File

(1) The Director of Veterans' Affairs (director) will maintain as a public record a list of those individuals who are authorized to sign personal service contracts on behalf of the director.

(2) The director will maintain a file and complete record of all personal service contracts and the administration and development of contract negotiations. The contract file will include:

- (a) Statement of agency justification for the contract;
- (b) Written justification for negotiation in lieu of competitive procurements when negotiation is used for personal service contracts in excess of \$25,000 per agreement per fiscal year.
- (3) For contracts in excess of \$25,000 per fiscal year, the contract file will include the following:
 - (a) A copy of the request for proposal;
 - (b) List of prospective contractors who were requested to submit proposals;
 - (c) Method used to advertise/notify other possible prospective contractors;
 - (d) A copy of each proposal;
 - (e) Method of evaluating proposals;
 - (f) Record of negotiations and results;
 - (g) How the contractor was selected, including the basis for awarding the contract; and
 - (h) Resulting contract, if awarded; and
 - (i) A completed form W-9, Payer's Request for Taxpayer Identification Number and Certification, as applicable.
- (4) For contracts of \$25,000 or less, the contract file will

include the following:

- (a) The names of firms or individuals and cost estimates/quotations considered;
- (b) The basis for selection of the contractor;
- (c) How reasonableness of price was determined; and
- (d) A completed form W-9, Payer's Request for Taxpayer Identification Number and Certification, as applicable.

Stat. Auth.: ORS 279.051, ORS 291.021, ORS 406.030, ORS 407.11, ORS 407.169, ORS 407.177, ORS 407.179, ORS 407.181 & ORS 407.275

Stats. Implemented: ORS 279.051, ORS 279.712, ORS 291.021, ORS 406.410, ORS 407.115, ORS 407.225, ORS 407.377, ORS 407.465 & ORS 408.360

Hist.: DVA 19-1982, f. & ef. 8-16-82; DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92; Renumbered from 274-005-0010; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93; DVA 5-1996, f. & cert. ef. 7-22-96

274-005-0060

Contract Amendment

(1) During the course of the contract project deviations, amendments, or need of change may be encountered. Such deviations will be renegotiated by the director.

(2) Any amendments must comply with the provisions of OAR 125-020-0520 through 125-020-0540 (formerly OAR 125-020-0030 through 125-020-0033).

Stat. Auth.: ORS 279, ORS 291.021, ORS 406.030 & ORS 407.115 ORS

Stats. Implemented: ORS 406.410, ORS 407.115, ORS 407.225, ORS 407.377, ORS 407.465 & ORS 408.360

Hist.: DVA 19-1982, f. & ef. 8-16-82; DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92; Renumbered from 274-005-0015; DVA 5-1996, f. & cert. ef. 7-22-96

DIVISION 10

EDUCATIONAL AID

274-010-0100

Definitions for 274-010-0100 to 274-010-0175

As used in these regulations or any amendments to them, or in any blank form, document, publication, or written instrument of any kind prescribed, provided, published, issued, or used by the Director or any of his duly authorized agents or employees in connection with the administration of the provisions of ORS 408.010 to 408.110, unless otherwise required by context:

(1) "Active Duty" or "Active Service" means that status in the Armed Forces in which the person on "active duty" is under the command of military or naval authorities, subject to military or naval discipline and on active duty pay status in the respective arm or branch of the Armed Forces in which the person is serving:

(a) Members of the reserve components of the Armed Forces, persons on a retired status in the military or naval forces of the United States, Cadets at West Point, Air Force Academy, and United States Coast Guard Academy and Midshipment at Annapolis were on active duty only after reporting for active duty;

(b) Members of the National Guard were on active duty only after having entered active Federal Service;

(c) ASTP, Naval V-12, or other like training programs shall not be considered active service.

(2) "Armed Forces" means and includes:

- (a) Army;
- (b) Navy;
- (c) Marines;
- (d) Air Force;
- (e) Coast Guard;

(f) Coast and Geodetic Survey (while serving with Army or Navy);

(g) Commissioned Officers of Public Health Service while serving with Army, Navy, Marine Corps, or Coast Guard.

(3) "Under Honorable Conditions" means that the official documents of discharge, service, or separation issued upon the termination of the veteran's active duty service with the Armed Forces are characterized as "honorable" or "under honorable conditions".

(4) "Alien" means any person who is not a citizen of the United States.

(5) "Alien Enemy" means any person who is a citizen of any nation, country, or state, or ally thereof, with which the United States is at war.

(6) "Conscientious Objector" means any person who during his period of service refused on conscientious, political, or other grounds to subject himself to full military discipline and unqualified service.

(7) "Combat Area" means any area designated or classified as an area under siege or subject to combatant action by any of the Armed Forces of the United States or any subdivision thereof.

(8) "Combat Service" means any active service in a combat area.

(9) "Other Like Training Program" means college training while in service, which compares with the civilian professional training for which college credit was, or could be, obtained to apply toward graduation from an approved institution of higher learning.

(10) "Domicile" or "Residence" means that place which a person intends as their fixed place of abode or habitation; which they consider to be their permanent home; and to which, whenever away, they always intend to return:

(a) Temporary absence from the state does not destroy domicile;

(b) Temporary presence in the state without an intention to establish a permanent home does not support a contention of being domiciled within the state.

(11) "Accredited Institution" means any institution where training is offered that has been certified as meeting the minimum requirements prescribed by the accrediting agency having jurisdiction over standards of uniformity and accreditation (the State Department of Education).

(12) "Approved Course of Study or Vocational Training" means any course of training outlined in the material submitted to and approved by the State Department of Education.

(13) "Full Time Undergraduate College Course" means that the particular course has met the following standards:

(a) "Full time" — As defined by the approved institution where the course is being pursued;

(b) "Undergraduate" — A course required for graduation from an approved institution where the course is being pursued. The level of the course being taken will be certified by the educational institution and will be considered rather than the educational standing of the applicant;

(c) "College" — An institution fully accredited by the appropriate accrediting agency, as recognized by the State Approving Agency (the State Department of Education).

(14) "Current Term" means:

(a) Fall, winter, spring, or summer term in those institutions operating on a term or quarter basis;

(b) First or second semester or summer session in those institutions operating on a semester or half year basis; or

(c) Not later than six weeks following enrollment in a training institution where training is a continuous program, not divided into terms or semesters.

(15) "Executive Head of the Institution" means:

(a) The President of the University or College;

(b) The Principal of the School;

(c) The Director of the Training establishment; or

(d) The person or persons to whom the executive head of the institution has delegated authority to act in his stead.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.090

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 12-25-65; DVA 9-1993, f. 9-13-93, cert. ef. 11-4-93

274-010-0105

Who May Apply for Educational Aid

Any person who qualifies as a beneficiary under the provisions of ORS 408.010 is eligible to apply for educational aid.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.030

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 9-1993, f. 9-13-93, cert. ef. 11-4-93

274-010-0115

Evidence Required to Establish Eligibility

Eligibility Form 1004-M shall be submitted to the Director accompanied by:

- (1) Certified copy of evidence of separation.
- (2) Proof of current Oregon residence.
- (3) Proof of change in name:

(a) Where veteran's name has been legally changed since discharge, a certified copy of the Court Order, marriage certificate, or divorce decree will be furnished to the Director;

(b) Where veteran's name has been changed, but not legally, an affidavit from the veteran and affidavits from at least two disinterested persons will be required to show such change.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.040

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 9-1993, f. 9-13-93, cert. ef. 11-4-93

274-010-0120

Applications

(1) All applications for educational aid shall be made upon Form 1005-M (Application Form), and shall be filed with the head of the training institution involved.

(2) Upon approval of training, the head of the institution shall forward the application to the Director.

(3) When an application is made for benefits to attend a course which may be considered an avocation or recreational in nature, or for a single subject course which is not directly related to the student's educational objective, the applicant shall include with the usual application a statement indicating how the desired courses will better prepare him to engage in a more gainful occupation.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.040

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 9-1993, f. 9-13-93, cert. ef. 11-4-93

274-010-0125

Evidence Required for Out-Of-State Attendance

Where the applicant requests educational aid for out-of-state attendance, the following information, in addition to that required by OAR 274-010-0120, shall accompany the usual application, in order to satisfactorily show the necessity for this attendance:

(1) A detailed statement of the required academic course, which shall include a resume of the student's educational background and experience as well as any additional information about the qualifications of the out-of-state school to provide the required training.

(2) When possible, the application should be accompanied by a statement from the Oregon institution where the applicant had previously attended or that would be most likely to offer the required training, certifying that the particular training required is not presently available.

(3) A statement from the out-of-state school confirming the enrollment of the applicant in the particular course as outlined.

(4) Evidence through school catalog or official certification, that the out-of-state school is fully accredited within its state to offer the required course.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.070

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-010-0130

Time for Filing Application

(1) Applications shall be submitted promptly following registration, or prior thereto for the courses or training for which aid is requested.

(2) Payments may be retroactive to the beginning of the

school term only if the applicant provides justifiable reasons for the delay in making application. Being unaware of the educational aid program will not in itself be sufficient grounds for considering retroactive payments.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.070

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-010-0135

Additional Information and Evidence

The Director may, in addition to the information and evidence specified in the application, instructions, or rules and regulations, require such additional information and evidence as he deems necessary to establish the applicant's eligibility.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.070

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-010-0140

Ineligible Persons

Persons ineligible to receive financial aid shall include:

- (1) Any alien or alien enemy.
- (2) Any conscientious objector who avoided combat service.
- (3) Any member of the Armed Forces who received civilian pay for work during period in question.
- (4) Those veterans presently receiving federal educational benefits.
- (5) Any World War II veteran who applies after June 30, 1959.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010, ORS 408.020 & ORS 408.025

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-010-0145

Computation of Payments

The following factors shall be used in computing the amount payable to the beneficiary:

- (1) Length of service shall be computed in full months.
- (2) For each month of time served, not exceeding 36 months, claimant shall be entitled to receive:
 - (a) Up to \$50 for full time undergraduate college course; or
 - (b) Up to \$35 for all other training.
- (3) Registration fees, lab fees, and text book costs actually paid by the beneficiary to the school may be considered expenses.
- (4) One month of entitlement will be deducted for each monthly payment covering any part of a calendar month.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.050 & ORS 408.060

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 12-25-65

274-010-0150

Payment of Benefits

- (1) Beneficiaries may receive financial aid as follows:
 - (a) \$50 per month for a minimum of 40 hours attendance while pursuing 12 credit hours of undergraduate college study. (Eight credit hours during summer session.);
 - (b) \$35 per month for all other courses of training; or
 - (c) Attendance of less than 40 hours will be prorated at a rate of 87-1/2 cents per hour.
- (2) Approved correspondence courses are acceptable.
- (3) State aid shall not be paid concurrently with federal educational assistance.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.020 & ORS 408.060

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 28, f. 8-16-61

274-010-0155

Approval by Director

- (1) The Director shall determine the applicant's eligibility to receive benefits.
- (2) The Director shall then determine:
 - (a) That the institution of learning is accredited and qualified

to provide the training;

(b) That the tuition and other charges are reasonable;

(c) That the beneficiary has qualifications to pursue the course of training;

(d) That the course of training, is satisfactorily completed, is likely to enable the beneficiary to become a more useful citizen.

(3) If all the conditions provided in section (2) of this rule are met, the Director shall approve the application.

(4) Where a satisfactory showing is made that the required training is not available at an approved Oregon institution, the Director shall permit the applicant to attend an out-of-state school or college.

(5) Upon approval of the application by the Director, benefits are payable:

(a) Beginning with the first day of applicant's attendance, subject to conditions under section (2) of OAR 274-010-0120; or

(b) Beginning on the date application is filed with executive head of the institution. If the applicant has failed to file promptly following registration and the delay is found to be caused by inexcusable oversight or neglect.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.025 - ORS 408.070

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-010-0160

Reports by Executive Head of Educational Institution

On or before the tenth day of each calendar month, the executive head of each institution of learning shall submit certified copies of Form 1006-M (Statement of Educational Aid), containing the following information.

(1) Name of each beneficiary;

(2) Amount of training;

(3) Attendance report; and

(4) Aptitude and attitude.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.050

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 9-1993, f. 9-13-93, cert. ef. 11-4-93

274-010-0165

Lost, Stolen, or Destroyed Warrant

If educational aid warrant is lost, stolen, or destroyed before negotiation, beneficiary may obtain payment of by furnishing to the State Treasurer evidence that value has not been received and an acceptable indemnity bond.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.060

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-010-0170

Addition, Amendment, or Repeal of Rules or Regulations

(1) These rules and regulations shall have the effect of law and shall be binding in all instances on persons making application for educational aid, under ORS 408.010 to 408.110, but if any part of these regulations are found to be void or illegal, such illegality shall not affect the remaining provisions of the rules and regulations.

(2) When the Director is absent, the Assistant Director shall have all the same powers and duties as the Director.

Stat. Auth.: ORS 408

Stats. Implemented: ORS 408.010 - ORS 408.090

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 12-25-65

274-010-0175

Procedure for Hearings

(1) Any interested person may petition the director requesting the promulgation, amendment, or repeal of any rule.

(a) Petition shall be in writing and shall set forth the requested change in detail;

(b) Director shall set time for hearing and shall notify petitioner of same;

(c) Petitioner may present any evidence he deems necessary

in support of his request; and

(d) The final determination shall be made by the director.

(2) Any applicant making application for educational aid may request a review of the director's decisions pertaining to educational benefits by filing a petition with the director.

(a) Petition shall be in writing and signed by or on behalf of the applicant. Petition shall contain a statement of facts requesting specific relief and sufficient information to indicate that the applicant is entitled to relief;

(b) Director shall set the time and place for a hearing and shall notify the applicant of same;

(c) Applicant may present any evidence he deems necessary in support of his request at the hearing; and

(d) The final determination shall be made by the director.

Stat. Auth.: ORS 183 & ORS 408

Stats. Implemented: ORS 408.060, ORS 408.040 & ORS 408.050

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 12-25-65; DVA 6-1996, f. & cert. ef. 7-22-96

DIVISION 15

ATTORNEY SERVICES FOR WAR VETERANS

274-015-0005

Applications for Benefits Under ORS 406.410

(1) A war veteran applicant for legal representation in the preparation, presentation, and prosecution of claims before the United States Veterans Administration may file an application for such representation with: Administrator, Veterans Services Division, Oregon Veterans' Building, 700 Summer Street, N.E., Suite 150, Salem, OR 97310-1270.

(2) Application forms are available upon request at the address set out in section (1) of this rule or may be requested by mail from such address.

(3) In order to be eligible for such legal representation, an applicant must:

(a) Be a resident of Oregon at the time of application;

(b) Have a personal claim which arises from or relates to:

(A) The status of the war veteran as a prisoner of war under circumstances described in ORS 805.110(2);

(B) Damages suffered by the war veteran due to exposure to causative agents as defined in ORS 408.305(4) while serving on active duty;

(C) Damages suffered by the war veteran due to exposure to radiation during testing of nuclear weapons; or

(D) Service by the war veteran in any combat zone while the Armed Forces of the United States were engaged in armed conflict with military forces of another nation.

(c) Having had a claim relating to the criteria set out in subsection (b) of this section denied at its initial stage but eligible, at the time of application, for appellate review.

(4) Completed application forms may be filed on or after July 1, 1986, and will be processed in the order of their filing. A photocopy of the DD214 or equivalent separation document must be attached to the application form.

(5) Within 30 days of the filing of an application, the Director of Veterans' Affairs will provide notification of the applicant's eligibility status and, in those instances where an applicant is deemed ineligible, the basis for such decision.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.410 & ORS 406.420

Hist.: DVA 7-1986(Temp), f. 6-26-86, ef. 7-1-86; DVA 9-1986, f. 10-30-86, ef. 11-1-86

274-015-0010

Conservatorship Fees

(1) The Director of Veterans' Affairs (DVA) may charge fees when acting as the Conservator of the estate of a protected person. The fees DVA may charge are as follows:

(a) For ordinary services, five percent of income to the estate;

(b) For unusual services:

- (A) \$20 per hour for real property management;
- (B) \$300 per real property appraisal;
- (C) \$25 per real property inspection.
- (2) The sources of income upon which DVA will impose a fee are as follows:

- (a) VA Compensation;
- (b) VA Pension;
- (c) VA Accumulated Benefits;
- (d) VA Death Indemnity Compensation (DIC);
- (e) VA Death Pension (Spouse, Child);
- (f) VA Education;
- (g) VA Rehabilitation;
- (h) Social Security;
- (i) State Retirement;
- (j) Federal Civil Service Retirement (CSA);
- (k) Worker's Compensation;
- (l) Railroad Retirement;
- (m) Union Pension;
- (n) Life Insurance Annuity;
- (o) Private Disability Insurance;
- (p) Military Retirement;
- (q) Wages;
- (r) Interest Income Earned Through Investments Made by the State Treasurer.

(3) As used in applicable Oregon Law and this rule, unless otherwise required by context:

(a) "Ordinary services" means services performed routinely for or on behalf of protected persons for whom DVA acts as Conservator;

(b) "Unusual services" means services provided to protected persons that go beyond being ordinary or routine services. "Unusual services" include, but are not limited to, management of real property, real property appraisals, and real property inspections.

(4) In deciding whether all or a portion of the fees will be waived, the Director shall consider the following:

(a) Whether the protected person has at least \$2,000 in cash and investment assets;

(b) Whether, after payment of a fee, the protected person would have sufficient funds to pay all outstanding bills, and have money remaining to pay for such basic needs as food, shelter, clothing, and medical care;

(c) Whether the protected person receives public assistance;

(d) Whether all foreseeable expenses have been taken into account in deciding what the needs of the protected person will be.

Stat. Auth.: ORS 113.085, ORS 406.030, ORS 406.040, ORS 406.050(5), ORS 406.050(6) & ORS 406.100

Stats. Implemented: ORS 406.050, ORS 406.100, ORS 406.110 & ORS 406.120

Hist.: DVA 9-1987, f. 11-25-87, ef. 12-1-87; DVA 4-1991, f. & cert. ef. 7-1-91

DIVISION 20

VETERANS' LOANS

274-020-0200

Definitions for OAR 274-020-0200 to 274-020-0450

As used in these regulations or any amendments to them, or any blank form, document, publication, or written instrument of any kind prescribed, provided, published, issued, or used by the director or any of his duly authorized agents or employees in connection with the administration of the provisions of Article XI-A of the Oregon Constitution and ORS chapter 407, providing for the loaning of money to qualified persons who served in the Armed Forces of the United States, unless otherwise required by context:

(1) "Armed Forces" means and includes:

- (a) Army;
- (b) Navy;
- (c) Marines;

- (d) Air Force;
- (e) Coast Guard;
- (f) WAC (Since July 1, 1943);
- (g) Waves;
- (h) Women Marines;
- (i) WAFS;
- (j) Spars;
- (k) Women's Air Force Service Pilots (WASP);

(l) Commissioned Officers of the Public Health Service. Service with Coast Guard between December 23, 1941, and November 10, 1943, inclusive. Service with the Army, Navy, Marine Corps, or Coast Guard between November 11, 1943, and July 28, 1945, inclusive. Eligible by executive order between July 29, 1945, and July 3, 1952, inclusive. Since July 3, 1952, when serving with the Armed Forces;

(m) Active service of commissioned officers of the National Oceanic and Atmospheric Administration or its predecessor organization, the Coast and Geodetic Survey, after July 29, 1945. Coast and Geodetic Survey officers while serving with the Army or Navy before July 29, 1945.

(2) "Active Duty" means that status in the Armed Forces in which the person on "active duty" is under the command of and subject to discipline and on active duty pay status in the respective branch of the Armed Forces in which the person is serving:

(a) Members of the reserve components; persons on a retired status from the Armed Forces; cadets at West Point, the United States Coast Guard Academy, the United States Air Force Academy, and Midshipmen at Annapolis, were on active duty only after reporting for active duty;

(b) Members of the National Guard were on active duty only after having entered active Federal Service for duty other than training.

(3) "Honorably Discharged" means that the official documents of discharge, service, or separation issued upon the termination of the veteran's service with the Armed Forces are characterized as "Honorable" or "Under Honorable Conditions".

(4) "Separated" means the termination of active duty with the Armed Forces.

(5) "Resident" or "Bona Fide Resident" means one who has domiciled within the state.

(6) "Domicile" means the legal residence of a veteran and consists of actual or inchoate residence in conjunction with the intention to maintain that residence, or the home of the veteran, where, when temporarily away, he has the intention of returning:

(a) Temporary absence from the state, such as vacation, military leave, or reasons of health, will not destroy the domicile;

(b) Temporary presence in the state without an intention to establish a permanent home will not support a domicile in the state;

(c) Domicile of an unemancipated minor shall be governed by his legal parent, (if the parents are divorced, the one having custody controls);

(d) Domicile of an emancipated minor shall be determined by choice.

(7) "Acquisition" means:

(a) The purchase and improvement of a home or farm; or

(b) The payment of the balance of a purchase price and interest on purchase contract of a home or farm and its improvements; or

(c) The refinancing of an existing purchase money security instrument on a home or farm or an instrument in the nature thereof, and the improvement of the property purchased; or

(d) Improvements of a home or farm.

(8) "Improvements" means any new construction, or any necessary or beneficial additions, alterations, or changes appurtenant to the house which add to the appraised value of the premises.

(9) "Security" means all of the real property, mobile home, or floating home that is to be acquired for a home and for which purpose the loan is requested.

(10) "Home" means any residential-type structure, including outbuildings and the real property in connection with it, if any, including long-term leaseholds, which is established, maintained,

and used primarily as a principal residence by the veteran.

(11) "Farm" includes:

(a) "Home"; and

(b) A parcel of land being used to obtain a profit in money by utilizing accepted farming practices to raise crops or livestock or poultry or dairying or combinations thereof.

(12) "Security Instrument" means a mortgage, deed of trust, or similar document used to perfect the lien on the security by the Director of Veterans' Affairs (ODVA). The lien will be a first lien on the home, except:

(a) As otherwise required by Oregon law, or allowed by Oregon law and approved in writing by ODVA; or

(b) 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.

(13) "Minor" means any single person under the age of 18 years, but any person shall be deemed to have arrived at the age of majority upon their marriage.

(14) "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.

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

(16) "Possession" means exclusive dominion and physical control of the secured property but occupancy is not necessary.

(17) "Lease Option" means a lease of real property with an option to purchase the property within a stipulated period of time.

(18) "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.

(19) "Underwriter/Designated Loan Officers" means those employees of the Department whose paramount responsibility shall be the approval or rejection of all applications for loans.

(20) "Department" means the Oregon Department of Veterans' Affairs (ODVA).

(21) "Net Appraised Value" is also known as loan value," and both terms mean 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 ODVA, or an appraisal approved by ODVA.

(22) "Loan to Value Ratio" is the loan amount and/or the outstanding balance owed to ODVA on the security divided by the net appraised value.

(23) "Original Loan" means:

(a) The first loan the veteran receives; or

(b) The first loan based on a restored loan right.

(24) "Subsequent Loan" means any loan or loans granted after the original loan and are in these categories:

(a) Additional loan;

(b) Second loan; and

(c) Veterans' Home Improvement loan.

(25) "Veteran" means any person eligible to receive a loan under the provisions of Article XI-A of the Oregon Constitution and sections (1) through (6) of this rule.

Stat. Auth.: ORS 406.030 & ORS 407.115

Stats. Implemented: ORS 407

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 26, f. 12-13-60; DVA 29, f. 7-3-63, ef. 9-2-63; DVA 32, f. 12-2-65, ef. 10-25-65; DVA 33, f. 12-7-66, ef. 1-11-67; DVA 35, f. 12-19-68, ef. 1-11-69; DVA 38, f. 5-10-71, ef. 6-11-71; DVA 43, f. 3-2-73, ef. 3-29-73; DVA 45, f. & ef. 12-1-75; DVA 47, f. & ef. 4-20-76; DVA 48, f. & ef. 1-3-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 1-1980, f. & ef. 1-15-80; DVA 4-1980, f. & ef. 12-1-80; DVA 3-1990, f. & cert. ef. 5-1-90; DVA 10-1995, f. 9-11-95, cert. ef. 9-22-95; DVA 12-1995, f. & cert. ef. 9-22-95; DVA 5-1997, f. & cert. ef. 10-22-97

274-020-0241

Authority to Protect the Security

At the discretion of the Director, funds can be disbursed to make repairs to correct a serious structural, safety, or sanitary

deficiency discovered in a property that is security for a loan when it is determined such a disbursement is necessary to protect the interest of the state. This would occur when the following conditions exist:

(1) The present and probable future value of the property, without benefit of the needed repairs, is sufficiently low when compared to the existing loan balance that the state's investment would be threatened; and

(2) The current owner is the original veteran borrower who lacks the financial means to make the needed repairs or corrections in a timely manner; and the funds required, when added to the existing loan balance, would exceed the maximum loan right or percentage of loan limitations; or

(3) The current owner is a transferee who lacks the financial means to make repairs or corrections in a timely manner.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115, ORS 407.131, ORS 407.135 & ORS 407.145

Hist.: DVA 5-1980, f. & ef. 12-1-80

274-020-0260

Who May Apply for Loan

(1) A single minor under 18 years of age or incompetent shall have a legal guardian for his estate before he can qualify for a state loan.

(2) A loan shall be made only to individual veterans.

(3) Joint loans or loans to a cooperative shall not be valid.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115, ORS 407.125 & ORS 406.030

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 10-15-65; DVA 42, f. 3-2-73, ef. 3-20-73

274-020-0265

Evidence Required to Establish Eligibility

The applicant shall submit to the Director the following evidence to establish eligibility:

(1) Evidence of separation such as a photostat of Discharge or a Certificate of Satisfactory Service and a photostat of Notice or Report of Separation, Transfer, or Discharge.

(2) Certificate of Service and Casualty Report when applicant is the unremarried spouse of a person who died on active duty.

(3) Proof of Oregon residence.

(4) Proof of any change in name since discharge:

(a) Where legally changed, proof shall be by a certified copy of the Court Order, or a marriage certificate, or a divorce decree;

(b) Where not legally changed, proof shall be by an affidavit from the veteran and affidavits from at least two disinterested persons.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 407.075, ORS 407.115 & ORS 407.125

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 1-1980, f. & ef. 1-15-80

274-020-0270

Forms and Signature

(1) Application for a loan from the state shall be made to the Director on forms provided by the Director.

(2) Applicants shall complete the appropriate department form to establish eligibility and shall sign their name as it appears on the discharge, unless their name has changed since discharge, in which case they shall use their present name.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 406.030, ORS 407.075, ORS 407.115 & ORS 407.125

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 48, f. & ef. 1-3-77; DVA 2-1985, f. 2-26-85, ef. 3-1-85

274-020-0280

Number of Applications Permitted

(1) A veteran may have only one application for a loan pending at any time.

(2) A veteran may make application for another loan if conditions exist which entitle him to another loan.

(3) A veteran may make an application for an additional loan if he presently has a state loan.

(4) A veteran may make application for a loan to use the balance of his loan right.

(5) A veteran may make application for an advance for improvements provided the security for the loan is the primary residence.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.205

Hist.: DVA 29, f. 7-3-63, ef. 9-2-63; DVA 32, f. 12-2-65, ef. 10-25-65; DVA 1-1980, f. & ef. 1-15-80

274-020-0285

Additional Loans

A veteran may receive this type of subsequent loan to replace an existing home unit on the existing ODVA security with a new home unit when the total funds do not exceed statutory limits.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.205 & ORS 407.265

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 29, f. 7-3-63, ef. 9-2-63; DVA 42, f. 3-2-73, ef. 3-20-73; DVA 5-1997, f. & cert. ef. 10-22-97

274-020-0290

Second Loans

Before a second loan may be granted:

(1) The repayment shall have been satisfactory; and

(2) The amount shall be limited to the balance of the original or restored loan right.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.205 & ORS 407.265

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 29, f. 7-3-63, ef. 9-2-63; DVA 36, f. 7-25-69, ef. 8-25-69; DVA 42, f. 3-2-73, ef. 3-20-73; DVA 45, f. & ef. 12-1-75

274-020-0295

Modification of Application

An application may be modified such as to the amount of the loan requested, legal description, amount of security or plans and specifications, but the modification must be requested in writing by the veteran and shall be subject to the approval of the Director.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.205, ORS 407.225 & ORS 407.265

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0300

Cancellation of Application

(1) An applicant may cancel his application for a state veterans' loan at any time prior to receipt of the loan proceeds.

(2) The Director may cancel any application if the applicant fails to comply with any of the conditions pertaining to the loan.

(3) The Director may destroy any application 25 months after the veteran application is notified of action taken on an application (whether credit was approved or adverse action was taken).

Stat. Auth.: ORS 183, ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.275, ORS 407.305 & ORS 407.375

Stats. Implemented: ORS 406.030, ORS 407.115, ORS 407.265 & ORS 407.385

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 21-1982, f. & ef. 9-15-82; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93

274-020-0305

Filing Period

An applicant may file to secure a veterans' loan at any time after separation from the service, even though he has re-enlisted and is not separated at the time of application.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115, ORS 407.125 & ORS 407.205

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 26, f. 12-13-60; DVA 35, f. 12-19-68, ef. 1-11-69

274-020-0310

Evidence of Acquisition

An applicant shall be required to furnish any of the following items applicable:

(1) A copy of the earnest money receipt or sales agreement, signed by all the parties if acquisition is by purchase.

(2) A copy of the contract of sale signed by all parties.

(3) A copy of the mortgage showing the recording data.

(4) Evidence of debt from F.H.A. Title 1 loan.

(5) Evidence of personal obligation incurred in acquiring the home.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115, ORS 407.155 & ORS 407.205

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0315

Evidence of Construction

An applicant shall submit complete plans, specifications, and cost estimates in applications for construction or improvements.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115, ORS 407.225 & ORS 407.265

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0322

Requirements for Farm Applicants

(1) Must complete the Department's farm income, experience, and expense form.

(2) Must have capital or an equivalent line of credit to cover development costs and one year's operating cost.

(3) Must show, to the satisfaction of the Director, that the farm portion of the loan security is capable of producing an annual income that will repay the loan allocated to the farm land and farm buildings.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.205, ORS 407.265 & ORS 407.385

Hist.: DVA 20-1982, f. & ef. 9-15-82

274-020-0325

Security for the Loan

(1) The home or farm offered as security shall be owned in fee by the veteran at the time the loan is closed.

(2) The state shall have the first lien at the time of making the loan except in those cases noted in OAR 274-020-0200(12).

(3) The security shall consist of real or personal property and the security instrument shall include all property to be acquired as a home but more than one parcel of real property may be included in the security.

(4) All security must be improved to supply a home for the applicant, and it must be in existence at the time the loan is closed.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.155 & ORS 407.225

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 45, f. & ef. 12-1-75

274-020-0330

Legal Description of Property Offered as Security

(1) Property offered as security must have an adequate legal description from which the boundaries of the property may be located.

(2) The Director may require a survey to ascertain the boundary lines and location of all permanent improvements on the property.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.225

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0335

Appraisal of Property

(1) An appraisal shall be made to assist in establishing the loan value only after a complete application has been received.

(2) On farms, the loan value allowable on the principal home unit portion of the property shall not exceed the amount needed

for a maximum home loan.

Stat. Auth.: ORS 406.030, ORS 407.115 & ORS 407.225(3)
 Stats. Implemented: ORS 407.115 & ORS 407.225
 Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 3-1980, f. & ef. 7-1-80; DVA 3-1990, f. & cert. ef. 5-1-90

274-020-0340

Terms of Loan

(1) The loan value shall be used as the basis for determining the maximum loan, subject to statutory limitations. Under the provisions of ORS 407.225(3), the maximum loan on a home which is real property shall not exceed 95 percent of the loan value, but may be a lesser amount as determined from time-to-time by the Director of Veterans' Affairs, (Director):

(a) On farms, the maximum original loan allowable for acquisition of the principal home unit portion of the property shall not exceed the maximum home loan, whether it be for purchase, refinance, construction, improvements, or a combination of these; and the maximum additional loan or advance for improvements to the principal home shall not exceed the difference between the maximum home loan and that portion of the original loan granted on the principal home unit, except advances for protection of security improvements, taxes, and insurance premiums;

(b) Loans shall be made in multiples of \$1.

(2) 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.

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

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

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

(b) All insurance money shall be payable to the State of Oregon, Director of Veterans' Affairs, by endorsement of the Director-approved mortgagee clause;

(c) The Director may enter into agreements with companies engaged in the business of providing insurance management programs which, among other things, assure the Director that the required insurance is kept in force. Where the borrower fails or refuses to keep the property adequately insured, the Director may pay the premium charged by the company providing the insurance management service, and any payment of premium so made shall be added to the amount due from the borrower and shall bear interest at the same rate as the principal indebtedness. The loan payment may be increased to repay the money advanced to pay the insurance premium and accrued interest, over a period of 12 months;

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

(5) On all loans made on or after June 1, 1990, or as otherwise agreed to by the borrower and the Director, the Director may collect in advance from said borrowers together with their payments required under section (2) of this rule, sufficient amounts to pay property taxes, 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).

(6) Property taxes, insurance premiums, and other charges may be paid by the Director 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, at his option, elect to pay property taxes, insurance premiums, and other charges from the Oregon War Veteran's Bond Sinking Account. Any amount paid by the Director from the

Oregon War Veteran's Bond Sinking Account may be added to and become part of the loan principal and shall bear interest at the same rate as the balance of the principal indebtedness. On loans made after June 1, 1991, excluding qualified loan assumptions, the Director will not add amounts advanced for payment of property taxes or 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.

(7) The borrower's loan payment may be increased to repay the money advanced from the Oregon War Veteran's Bond Sinking Account to pay the property taxes, 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.

Stat. Auth.: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.179, ORS 407.179, ORS 407.181, ORS 407.225(3) & ORS 407.275

Stats. Implemented: ORS 407

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 29, f. 7-3-63, ef. 9-2-63; DVA 32, f. 12-2-65, ef. 10-25-65; DVA 42, f. 3-2-73, ef. 3-20-73; DVA 45, f. & ef. 12-1-75; DVA 1-1980, f. & ef. 1-15-80; DVA 3-1980, f. & ef. 7-1-80; DVA 6-1983, f. & ef. 5-3-83; DVA 3-1985, f. 2-26-85, ef. 3-1-85; DVA 3-1987, f. & ef. 5-1-87; DVA 3-1990, f. & cert. ef. 5-1-90; DVA 1-1992, f. & cert. ef. 1-2-92; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(f) Effective January 1, 1983, 6.7 percent on loans for which applications were received on or after July 1, 1979, and on or before December 31, 1980;

(g) Effective January 1, 1983, 8.2 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981;

(h) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(i) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed before October 15, 1982.

(3) As provided by ORS 407.325, the interest rate on variable rate personal property loans shall be as follows:

(a) Effective May 30, 1975, 7.9 percent on personal property and leaseholds. Leaseholds were defined as real property on Octo-

ber 4, 1977, with rates established as provided in section (2) of this rule;

(b) Effective November 1, 1981, 13 percent on loans for which applications were received on or after August 24, 1981;

(c) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(d) Effective October 15, 1982, 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds were disbursed on or after October 15, 1982;

(e) Effective January 1, 1983, the interest rate shall be adjusted to 10.5 percent on loans for which applications were received on or after August 24, 1981, and funds disbursed before October 15, 1982.

(4) Effective January 1, 1986, the interest rate on certain loans shall be changed as follows:

(a) The interest rate on 6.2 percent loans becomes 7.2 percent;

(b) The interest rate on 6.7 percent loans becomes 7.7 percent;

(c) The interest rate on 7.9 percent loans becomes 8.9 percent;

(d) The interest rate on 8.2 percent loans becomes 9.2 percent.

(5) As provided by ORS 407.327, the interest rate on loans made on or after:

(a) April 15, 1992, shall be fixed and shall be 7.6 percent on loans for which applications were received on or after April 8, 1992.

(b) August 17, 1992, shall be fixed and shall be 7 percent on loans with a maturity date of 15 years or less, and 7.3 percent on loans with a maturity date in excess of 15 years.

(c) April 1, 1993, shall be fixed and shall be 6.7 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(d) November 1, 1993, shall be fixed and shall be 6.0 percent on loans with a maturity date of 15 years or less, and 7.0 percent on loans with a maturity date in excess of 15 years.

(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.325 & ORS 407.327

Stats. Implemented: ORS 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92; DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99

274-020-0342

Interest Rate on Assumptions by Eligible Veterans

(1) Effective February 3, 1982, a veteran eligible for a loan under ORS 407.075 to 407.595 and Article XI-A of the Oregon Constitution who assumes a loan, previously made by the Director, assumes at one of the following rates:

(a) If the previous loan was a fixed interest rate loan made to a veteran before May 27, 1971, the assumption will be at the fixed rate;

(b) If the previous loan was a variable rate loan made to a veteran on or after May 27, 1971, the assumption will be at the rate of the previous loan, and will remain variable, with the limitation that the rate will not decrease and will not increase more than an additional one percent or exceed the current veteran's rate at the time of transfer;

(c) If the previous loan had been transferred to one other than the original borrower, the surviving spouse, unremarried former spouse, surviving child or stepchild of the original borrower, or other eligible veteran assuming pursuant to ORS 407.305, the assumption rate to the veteran will be at the rate of the transferred loan, and will not become variable until a subsequent transfer.

(2) Effective September 28, 1987, a veteran eligible for a loan under ORS 407.075 to 407.595 and Article XI-A of the Oregon Constitution who assumes a loan, previously made by the Director, assumes at 10.5 percent variable or at the existing rate on the loan, whichever is higher.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.285 - ORS 407.335

Hist.: DVA 6-1982(Temp), f. & ef. 3-11-82; DVA 10-1982, f. & ef. 4-15-82; DVA 24-1982, f. & ef. 10-1-82; DVA 6-1987, f. 9-24-87, ef. 9-28-87

274-020-0343

Interest Rates on Loans Secured by Property Transferred to Non-Veterans

(1) Effective February 3, 1982, the interest rate on all loans secured by property transferred before February 3, 1982 will not change on the first transfer on or after February 3, 1982, but on any subsequent transfer the interest rate will be as provided by this rule and will be variable, with the limitation that the rate will not

decrease and will not increase more than an additional one percent, except as provided under ORS 407.335(4).

(2) Subject to the conditions and limitations of section (1) of this rule, the interest rate on real property loans, when the property securing the loan is transferred to someone other than those entitled to the veteran's interest rate, shall be:

- (a) Through August 21, 1969, 5 percent;
- (b) Effective August 22, 1969, 6.2 percent;
- (c) Effective September 4, 1969, 7.9 percent;
- (d) Effective December 10, 1969, 8.1 percent;
- (e) Effective April 8, 1970, 7.8 percent;
- (f) Effective August 19, 1970, 7.4 percent;
- (g) Effective January 6, 1971, 6.4 percent;
- (h) Effective May 27, 1971, 7 percent;
- (i) Effective June 1, 1977, 8 percent;
- (j) Effective December 1, 1977, 8.8 percent;
- (k) Effective December 1, 1978, 9.8 percent;
- (l) Effective December 1, 1979, 11 percent;
- (m) Effective December 1, 1980, 13 percent;
- (n) Effective December 1, 1981, 17 percent;
- (o) Effective February 3, 1982, 12 percent;
- (p) Effective October 15, 1982, 11.5 percent;
- (q) Effective January 1, 1985, 11.52 percent;
- (r) Effective January 1, 1986, 9.86 percent, or one percent

higher than the rate on the original note, whichever is higher. "The rate on the original note" shall be the rate stated as such on the note;

(s) Effective January 1, 1987, 8.59 percent, or one percent higher than the rate on the original note, whichever is higher;

(t) Effective September 1, 1987, 10.75 percent, or the rate existing on the loan immediately prior to the transfer, whichever is higher.

(3) Subject to the conditions and limitations of section (1) of this rule, the interest rate on personal property loans, when the property securing the loan is transferred to someone other than those entitled to the veteran's interest rate, shall be:

(a) Effective May 30, 1975, 9 percent. Personal property included leaseholds until leaseholds were defined as real property on October 4, 1977. On or after October 4, 1977, the interest rate on leaseholds is the real property interest rate;

- (b) Effective December 1, 1977, 9.8 percent;
- (c) Effective December 1, 1978, 10.8 percent;
- (d) Effective December 1, 1979, 12 percent;
- (e) Effective December 1, 1980, 14 percent;
- (f) Effective December 1, 1981, 18 percent;
- (g) Effective February 3, 1982, 12 percent;
- (h) Effective December 1, 1982, 12.5 percent;
- (i) Effective January 1, 1985, 11.52 percent;
- (j) Effective January 1, 1986, 9.86 percent, or one percent

higher than the rate on the original note, whichever is higher. "The rate on the original note" shall be the rate stated as such on the note;

(k) Effective January 1, 1987, 8.59 percent, or one percent higher than the rate on the original note, whichever is higher;

(l) Effective September 1, 1987, 10.75 percent, or the rate existing on the loan immediately prior to the transfer, whichever is higher.

(4) This rule does not apply to transfers to the surviving spouse, unmarried former spouse, surviving child, or stepchild of the original borrower, who are entitled to the veteran's interest rate.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.275 & ORS 407.335

Hist.: DVA 6-1982(Temp), f. & ef. 3-11-82; DVA 10-1982, f. & ef. 4-15-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 24-1982, f. & ef. 10-1-82; DVA 5-1983, f. & ef. 2-15-83; DVA 12-1984, f. 12-17-84, ef. 1-1-85; DVA 13-1985(Temp), f. 12-16-85, ef. 1-1-86; DVA 14-1985(Temp), f. 12-30-85, ef. 1-1-86; DVA 5-1986, f. 3-10-86, ef. 4-1-86; DVA 10-1986(Temp), f. 12-8-86, ef. 1-1-87; DVA 2-1987, f. & ef. 4-15-87; DVA 5-1987, f. & ef. 9-1-87

274-020-0344

Fixed Interest Rate

(1) Subject to the provisions of this rule, effective June 1, 1989, borrowers with ODVA loans being charged 7.2 percent variable interest may convert the loan to a fixed interest rate.

(2) Subject to the provisions of this rule, effective February 1, 1990, borrowers with ODVA loans being charged 7.7 percent variable interest may convert the loan to a fixed interest rate.

(3) The following loans do not qualify for the interest rate conversion:

- (a) Accounts with 12 or less monthly payments, or one annual payment remaining before the loan will be paid in full;
- (b) Accounts of borrowers in bankruptcy;
- (c) Accounts in foreclosure;
- (d) Accounts two or more months delinquent;
- (e) Accounts coded as questionable loans (propriety of loan being investigated);

(f) Loans, any portion of which is being charged an interest rate other than 7.2 percent or 7.7 percent (composite interest rate).

(4) Accounts on semi-annual or annual payment schedules can convert to a fixed interest rate. If the holder of a loan with semi-annual or annual payments would like a fixed interest rate loan, all provisions of this rule will apply, except sections (7) and (8) of this rule. Matters covered by sections (7) and (8) of this rule will be negotiated with the borrower.

(5) The remaining term on loans converted to a fixed interest rate will be shortened. The shorter term will be arrived at by using the current retirement date, or the remaining term on loans paying off earlier than the retirement date (larger than required payments were made), and deducting ten percent:

(a) The maximum term on loans converting to a fixed interest rate shall be 40 years;

(b) The fixed interest rate available will be based upon the remaining term of the loan (after shortening the term as provided above) and shall be as follows: Remaining Term On Loans Being Charged 7.2% Interest — Fixed Interest Rate:

- (A) 5 years or less — 7.3%;
- (B) 5 years 1 month to 9 years 11 months — 7.4%;
- (C) 10 years to 14 years 11 months — 7.5%;
- (D) 15 years to 19 years 11 months — 7.6%;
- (E) 20 years to 24 years 11 months — 7.7%;
- (F) 25 years or more — 7.8%.

(c) Loans Being Charged 7.7% Interest — Fixed Interest Rate : All Loans — 7.8%.

(6) In order to convert a 7.2 or a 7.7 percent variable interest rate loan to a fixed interest rate loan, the borrower must agree to the following:

(a) Each year ODVA may adjust the payment on principal and interest to an amount that will cause the loan to pay in full by its retirement date. The payments on principal and interest will not be reduced to an amount lower than the amount established at the time of conversion to a fixed interest rate;

(b) If ownership of the property securing the ODVA loan is transferred, or ownership of any portion of the property securing the loan is transferred, the interest rate on the loan will be as provided by ORS 407.275(2), the due date on the loan will be the due date on the latest Note and Mortgage, Trust Deed, or Security Agreement, and the agreement allowing ODVA to annually adjust the payment on the loan to assure proper amortization will terminate.

(7) The procedure for implementing the interest rate conversion on loans being charged 7.2 percent variable interest rate shall be as follows:

(a) Whether the account qualifies for interest rate conversion will be determined by the status of the account on June 1, 1989, if payments are due on the first day of the month or June 15, 1989, if payments are due on the 15th day of the month;

(b) Borrowers desiring to make the interest rate conversion must notify ODVA in writing, by either mailing a post card furnished by ODVA, or by other written notification:

(A) By June 30, 1989, if payments are due on the 1st day of the month;

(B) By July 14, 1989, if payments are due on the 15th day of the month.

(c) Interest owing on June 1, 1989, or June 15, 1989 (as applicable) shall be added to the balance of the loan on August 1, 1989, or August 15, 1989 (as applicable);

(d) Any "paid ahead" or "delinquency" existing on the loan on June 1, 1989, or June 15, 1989, (as applicable), will be eliminated;

(e) The new terms of the loan shall be effective August 1, 1989, or August 15, 1989, (as applicable) and the new payments will begin September 1, 1989, or September 15, 1989 (as applicable).

(8) The procedure for implementing the interest rate conversion on loans being charged 7.7 percent variable interest shall be as follows:

(a) Whether the account qualifies for interest rate conversion will be determined by the status of the account on February 1, 1990, if payments are due on the 1st day of the month or March 15, 1990, if payments are due on the 15th day of the month;

(b) Borrowers desiring to make the interest rate conversion must notify ODVA in writing, by either mailing a postcard furnished by ODVA, or by other written notification:

(A) By February 23, 1990, if payments are due on the 1st day of the month;

(B) By April 9, 1990, if payments are due on the 15th day of the month.

(c) Any "paid ahead" or "delinquency" existing on the loan on February 1, 1990, or March 15, 1990 (as applicable), will be eliminated;

(d) The new terms of the loan shall be effective April 1, 1990, or May 15, 1990 (as applicable) and the new payments will begin May 1, 1990, or June 15, 1990 (as applicable).

(9) This rule does not apply to contracts for the purchase of State-owned property.

Stat. Auth.: ORS 406.030, ORS 407.115 & ORS 407.327

Stats. Implemented: ORS 407.327

Hist.: DVA 1-1989, f. & cert. ef. 6-1-89; DVA 1-1990, f. & cert. ef. 1-2-90

274-020-0345

Approval of the Loan

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

(1) The veteran applicant must meet the minimum Federal National Mortgage Association (FNMA) credit underwriting requirements as set forth in **FNMA Selling Guide**, a copy of which is on file with the Department of Veterans' Affairs.

(2) The veteran applicant is required to have an equity in the property.

(3) Secondary financing may be permitted.

(4) Construction shall meet the minimum standards set by federal, state and 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.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.275, ORS 407.305 & ORS 407.375

Stats. Implemented: ORS 407.115, ORS 407.125 & ORS 407.225

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 10-25-65; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 7-1982, f. & ef. 3-15-82; DVA 3-1991, f. 5-30-91, cert. ef. 6-3-91; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 7-1995, f. & cert. ef. 7-21-95

274-020-0348

Grounds for Refusing to Make a Loan

The Director may refuse to make a loan to any applicant if he finds any of the following:

(1) Prior loan experience with an applicant was un-

satisfactory, including, but not limited to, late payment or non-payment on loan and impairment of security.

(2) The applicant did not disclose all debts or obligations as required under the terms of the loan credit application.

(3) The applicant has a negative cash flow.

(4) The applicant has declared bankruptcy within the last three years unless:

(a) The applicant or the applicant's spouse has been regularly employed, other than self-employed, since the discharge; and

(b) The applicant has established credit since the bankruptcy and made timely and satisfactory payments on obligations; and

(c) The bankruptcy was caused by circumstances beyond the applicant's control, such as uninsured medical expense, layoff, strike, or divorce.

(5) The applicant has declared bankruptcy between three and five years prior to application for a loan, unless: The applicant has reestablished credit since the bankruptcy.

(6) Business bankruptcies will not be grounds for refusing to make a loan if:

(a) The applicant was self-employed and the bankruptcy was not due to misconduct; and

(b) There is no evidence of derogatory credit information prior to the self-employment or after the bankruptcy; and

(c) The applicant has subsequently obtained a permanent position with reliable income.

(7) Chapter 13 bankruptcies will not be grounds for refusing to make a loan if: The applicant has made satisfactory payment of at least three-fourths of the total payments due the trustee.

(8) The applicant's ability to repay the loan is insufficient, as provided by **FNMA Selling Guide**, a copy of which is on file with the Department of Veterans' Affairs.

(9) The applicant is an unsatisfactory credit risk, as determined by the underwriting analysis of the credit rating agency selected by the Director. In that case, the Director shall advise the applicant of his refusal on this basis and supply to the applicant the name and address of any consumer reporting agency which provided the Director with information on the applicant. If the applicant requests in writing within 60 days after being notified of the refusal, the Director shall provide the applicant with the name of any person other than a consumer reporting agency who provided information which was, wholly or in part, a basis of such refusal.

(10) The applicant is involved in the following type of transactions:

(a) The purchase of property from a spouse where the amount which the applicant seeks to borrow from the Department of Veterans' Affairs exceeds the unpaid balance on loans used to acquire or improve the property;

(b) The purchase from a corporation wholly or substantially owned by the applicant;

(c) The purchase of property indirectly owned by the applicant.

(11) The applicant has or has had any interest, within the past three years, either title or contractual, in the property being purchased, except it will not be grounds for refusing to make a loan:

(a) If the applicant is purchasing a one-half interest from a divorced spouse. The sum shall be stated in the divorce decree;

(b) If the applicant acquired an interest in property by inheritance and is purchasing the interest which co-heirs have in the same property;

(c) If the application is for an improvement or additional loan;

(d) If the application is for a rehabilitation loan or a loan to pay off a bridge loan. A "bridge loan" is temporary financing obtained for the purpose of financing the purchase of a home pending the sale of a home owned by the borrower and listed with a real estate broker or advertised for sale;

(e) If the application is for a loan to pay off an interim loan whose term does not exceed 24 months (not renewable);

(f) If the application is for a loan to pay off a construction period loan obtained not more than 36 months, and the construction was completed not more than 12 months, before submitting

an application to the Director.

(12) The applicant does not meet Federal National Mortgage Association (FNMA) underwriting or property standards, as provided by **FNMA Selling Guide**, a copy of which is on file with the Department of Veterans' Affairs.

(13) Effective with applications received after May 15, 1984, except for farm loans and loans for multi-family dwellings, if the applicant will use the property offered as security for the loan for a purpose that would jeopardize the tax-exempt status of interest to holders of Bonds issued by the Director of Veterans' Affairs:

(a) Specifically excluded uses are:

(A) As an investment;

(B) As a recreational home;

(C) As a principal place of business for any trade or business of the applicant.

(b) Examples of excluded uses (if a portion of the property is used regularly and exclusively in connection with a trade or business) are:

(A) Using any portion of the residence as a place to meet patients, clients, or customers in the normal course of business;

(B) Storage of inventory in a separate and identifiable fixed location and kept for the wholesale or retail selling of products as a part of the applicant's trade or business which would entitle the applicant to a "Business Use of the Home" income tax deduction;

(C) Providing care for children, for the elderly, or for handicapped persons, if the nature and character of the care entitles the property owner to a "Business Use of the Home" income tax deduction.

(c) Any use of a residence which does not qualify for a "Business Use of the Home" income tax deduction shall not be considered as a use in a trade or business. Examples of such permitted uses are:

(A) Storage of inventory for the benefit of an employer or in conduct of a direct selling business, if the use is not exclusive of any personal use of that part of the residence;

(B) Babysitting, if the nature and character of the babysitting does not entitle the property owner to a "Business Use of the Home" income tax deduction;

(C) Engaging in person-to-person sales of consumer products to customers in the home, such as Tupperware, Amway, Avon, wicker, crystal, or similar products;

(D) Foster home established by Court Order, or designated by a Government Agency with jurisdiction to make such a designation;

(E) Using part of the residence to write legal briefs, prepare tax returns, read financial periodicals and reports, clip bond coupons, or engage in similar work, if the use is not exclusive of any personal use of that part of the residence.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 183, ORS 286, ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.275, ORS 407.305 & ORS 407.375

Stats. Implemented: ORS 407.115, ORS 407.125, ORS 407.179 & ORS 407.225

Hist.: DVA 7-1982, f. & ef. 3-15-82; DVA 8-1983, f. & ef. 6-1-83; DVA 3-1984, f. 5-2-84, ef. 5-15-84; DVA 6-1984, f. 7-25-84, ef. 8-1-84; DVA 3-1991, f. 5-30-91, cert. ef. 6-3-91; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 7-1995, f. & cert. ef. 7-21-95

274-020-0350

Evidence of Title

(1) The veteran shall furnish at his expense a mortgagee's title policy for the amount of the loan, a title company lien search, or a certificate of title.

(2) The title policy, or other reports, shall show that the state has a first lien except in the case of:

(a) Property taxes not payable;

(b) A lien of a bonded irrigation or drainage district, in which case all due assessments must be paid;

(c) A public improvement lien, bonded or being collected by the County Tax Collector in which case all due assessments must be paid;

(d) A lien for Reclamation Service of the United States Government, in which case all due assessments must be paid;

(e) A Mortgagee's Title Insurance policy insuring the state against loss from any prior encumbrance, but the encumbrance must be acceptable to the veteran mortgagor.

(3) All water stock shall be endorsed to, and deposited with, the Director to be held by the state until its interest terminates.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 407.115 & ORS 407.225

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 45, f. & ef. 12-1-75

274-020-0355

Escrow Closing of Loans

(1) All loans made by the Director of Veterans' Affairs (except for protection of security loans) shall be closed by persons or firms licensed to engage in the escrow business under the Oregon Escrow Law (ORS 696.505 to 696.585), or an attorney at law rendering services in the performance of duties as attorney at law. This rule shall be effective on all loan applications received after May 31, 1984:

(a) The types of loans requiring escrow closing are:

(A) Original;

(B) Additional;

(C) Dual (Loans having notes with different due dates);

(D) Improvement;

(E) Assumption of existing.

(b) A loan for protection of security does not require escrow closing;

(c) (For contract sales of State-owned property, see OAR 274-021-0010.)

(2) The escrow agent or attorney for closing the loan will be selected by the borrower and the borrower shall pay all escrow fees.

(3) Escrow closing shall not be waived except when in the Director's opinion, requiring escrow closing would cause an undue hardship.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.177, ORS 407.179 & ORS 407.181

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 29, f. 7-3-63, ef. 9-2-63; DVA 34, f. 8-18-67, ef. 9-11-67; DVA 37, f. 4-6-70, ef. 4-25-70; DVA 42, f. 3-2-73, ef. 3-20-73; DVA 1-1984, f. & ef. 5-3-84

274-020-0360

Disbursement of Loan Funds

(1) When a veteran is purchasing or refinancing, the loan funds may be disbursed when the loan is closed.

(2) When construction or improvement is involved and the property complies with the definition of a home, the loan funds may be disbursed after the loan is closed, but disbursement is limited to the maximum percentage permitted by statute of the net appraised value.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.125 & ORS 407.165

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 39, f. 5-27-71, ef. 6-25-71; DVA 2-1978, f. & ef. 12-1-78

274-020-0375

Lost, Stolen, or Destroyed Warrants or Checks

If loan proceeds in the form of a warrant or check issued by the Director are lost, stolen, or destroyed before negotiation, the payee may obtain payment by filing with the Director evidence that value has not been received.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115 & ORS 407.495

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 21-1982, f. & ef. 9-15-82

274-020-0380

Transfer of Ownership

(1) The director shall be notified in writing of any transfer of ownership or the right to possess property that is used as security for a loan with the Oregon Department of Veterans' Affairs (ODVA).

(2) The interest rate on any outstanding obligation will be adjusted at the time of the transfer as provided by ORS 407.335.

(3) The following are conditions which constitute a transfer of an ownership interest or the right to possess the loan security:

(a) A borrower takes title to the property with a person other than his or her legal spouse;

(b) Contract of sale;

(c) Any deed transfer;

(d) Any other indenture that purports to convey or transfer any portion of equitable title except for the following:

(A) Deed to create a life estate retained by the eligible veteran mortgagor; or

(B) Deed to a government entity for public use as noted in Chapter 238 Oregon Laws 1995.

(4) Other types of transactions that may provide for an automatic adjustment in interest rate include:

(a) A purchase option that extends for a period of 12 months and 32 days, or more;

(b) A lease that extends for more than the following periods:

(A) 60 months for farms of 20 acres or more;

(B) 12 months and 32 days for all properties other than farms of 20 acres or more.

(c) A purchase option with a consideration of three percent or more of the stated purchase price.

(5) An assumption by an eligible veteran may be approved at the rate set under ORS 407.305 under the following conditions:

(a) The applicant uses his or her entitlement to make application to the Department for the assumption; and

(b) Meets the requirements for a new loan; and

(c) Executes an assumption agreement which will release the original veteran borrower from personal liability.

(6) The director will not enter into an assumption agreement with a person (or persons) acquiring an ownership interest in ODVA security whereby the existing debtor is relieved of further liability on the debt, unless the new owner (or owners) meets the credit underwriting requirements for a Federal National Mortgage Association (FNMA) loan. These requirements are detailed in **FNMA Selling Guide**, a copy of which is on file with the Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and is available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m. The director may on an individual case and with good and sufficient reason documented in the loan file enter into an assumption agreement which does not meet FNMA underwriting requirements if the director decides it is in the best interest of the Department to do so.

(7) The director will not consent to the assignment of a Land Sale Contract whereby the present purchaser is relieved of further liability on the contract, unless the assignee meets the credit underwriting requirements for an FNMA loan. These requirements are set forth in **FNMA Selling Guide**, a copy of which is on file with the Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and is available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m. The director may on an individual case and with good and sufficient reason documented in the file consent to an assignment which does not meet FNMA underwriting requirements if the director decides it is in the best interest of the department to do so.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.275, ORS 407.305 & ORS 407.335

Stats. Implemented: Ch. 238 OL 1995, ORS 407.275 & ORS 407.335

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 32, f. 12-2-65, ef. 10-25-65; DVA 36, f. 7-25-69, ef. 8-25-69; DVA 39, f. 5-27-71, ef. 6-25-71; DVA 45, f. & ef. 12-1-75; DVA 2-1982(Temp), f. & ef. 1-21-82; DVA 17-1982, f. & ef. 7-1-82; DVA 25-1982, f. & ef. 10-1-82; DVA 28-1982, f. 12-30-82, ef. 1-1-83; DVA 5-1989, f. & cert. ef. 11-15-89; DVA 3-1991, f. 5-30-91, cert. ef. 6-3-91; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 7-1995, f. & cert. ef. 7-21-95; DVA 10-1995, f. 9-11-95, cert. ef. 9-22-95; DVA 12-1995, f. & cert. ef. 9-22-95

274-020-0382

Interest Rate Payable When Property Transferred Back to Original Borrower

The interest rate on a loan secured by property transferred back to the original borrower depends upon whether the original borrower has an outstanding loan, with the interest rate under ORS 407.325 (Rate of Interest Payable by Applicant) at the time of the transfer, and whether the home will be used as the original borrower's principal residence:

(1) If the original borrower does not have an outstanding loan with the interest rate under ORS 407.325 at the time of the transfer, and the home will be used as the original borrower's principal residence, the interest rate will be the rate charged on the loan when made and as periodically adjusted under the "variable" provision of ORS 407.325.

(2) If the original borrower has an outstanding loan with the interest rate under ORS 407.325 at the time of the transfer, or said borrower will not use the home as the borrower's principal residence, the interest rate will be the rate under ORS 407.335 (Rate of Interest Payable by Transferee).

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.275, ORS 407.325 & ORS 407.335

Hist.: DVA 5-1985, f. 2-26-85, ef. 3-1-85

274-020-0385

Modification of Mortgage

(1) A request for modification of a mortgage must be made in writing by the borrower.

(2) The borrower and the Director shall agree in writing to the terms of the modification, and it shall be recorded in the mortgage records in the county where the security is located.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.115 & ORS 407.155

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0386

Temporary Reduction of Payments

(1) In the event a veteran is unable to make required loan payments due to loss of income because of illness, injury, death, involuntary job loss, or economic stress due to factors beyond the veteran's control, the veteran may apply for a temporary reduction of payments, provided that:

(a) The veteran is the original borrower or one who assumed the loan pursuant to ORS 407.305 (formerly 407.063);

(b) The veteran is residing in the property used as security for the loan at the time he or she requests the payment reduction;

(c) The veteran must request the loan reduction by writing to the Director of Veterans' Affairs, c/o Collection Unit, 700 Summer Street, N.E., Salem, OR 97310. The written request must contain a statement describing the reason for the request, current income, source of income, and must be accompanied by a copy of the veteran's previous two years' federal income tax returns;

(d) The veteran must furnish any other documentation requested by the director relating to the reason for request.

(2) In determining the amount and term for reducing loan payments, the director shall consider the value of the security, the balance owing on the loan, the total assets of the borrower, past payment record of the borrower, and any other matters related to financial hardship to the borrower and the financial position of the loan program:

(a) Monthly loan payments may not be reduced to an amount less than the monthly loan cancellation life insurance premiums;

(b) The director may recapture the reduced portion of the monthly payment and any other accrued delinquency by whatever repayment methods are appropriate to individual circumstances;

(c) The terms and conditions of the payment reduction and repayment must be agreed upon, in writing, and approved by both the veteran and the director;

(d) The veteran may be required to submit information periodically regarding his income and financial affairs in order to reevaluate the necessity of continuing the reduction in payments. Following such reevaluation, the loan payment reduction may be modified by the director;

(e) The veteran must continue to reside in the loan security.

(3) A veteran whose loan is in foreclosure is not eligible under this program.

(4) Temporary reduction of loan payments is a benefit to be extended only in an extreme emergency and is not to be abused.

(5) Because of the effect of these reductions on the solvency of the loan program as a whole, on the probable financial position of the program in the future, on the condition of the tax-exempt bond market, and on other borrowers in the program, the director has determined that the maximum number of borrowers that can be accommodated under this program is approximately one percent of the total outstanding borrowers. Therefore, at any time, the director will enter into agreements as provided in subsection (2)(c) of this rule with no more than one percent of the total loan portfolio, the number to be specified by the director.

Stat. Auth.: ORS 406.030, ORS 407.095 & ORS 407.115

Stats. Implemented: ORS 406.030, ORS 407.095 & ORS 407.115

Hist.: DVA 4-1982(Temp), f. & ef. 2-9-82; DVA 18-1982, f. & ef. 8-2-82; DVA 7-1996, f. & cert. ef. 7-22-96

274-020-0387

Reamortization of Loans

The Director of Veterans' Affairs may adjust payments and/or other terms of the loan under the following conditions:

(1) Tax adjustments.

(2) A change in the interest rate and/or insurance premiums.

(3) Errors and/or omissions on the security agreement.

(4) When the balance of the loan will not amortize within the terms of the security document.

(5) Any expenditure or advance of funds as provided under ORS 407.135 (formerly 407.080), 407.145(2) (formerly 407.090(2)), and the security document.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.095, ORS 407.135 & ORS 407.145

Hist.: DVA 9-1982(Temp), f & ef. 4-9-82; DVA 12-1982, f. & ef. 5-17-82; DVA 7-1996, f. & cert. ef. 7-22-96

274-020-0388

Property Tax Amortization and Escrow Accounting

(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:

(a) The amounts shall be determined each year by dividing the amount advanced by the number of loan payments due during the year, increased to the next whole dollar;

(b) The amounts so determined shall be added to and become part of the loan payment unless full payment of the advance is made pursuant to subsection (c) or (d) of this section;

(c) As soon as possible after taxes are paid on November 15th of each year, the director may notify each borrower by mail of the amount of the tax advance. If full payment of the tax advance is made to the director, the amount determined in subsection (a) of this section shall be deleted from the loan payments. Upon such payment the borrower shall be credited with prior loan payments made to the extent of the amounts contained therein that represent repayment of the tax advance;

(d) If for any reason the taxes cannot be paid on November 15th, the director will send the notice as provided in subsection (c) of this section as soon as possible after the taxes are paid;

(e) Effective with taxes to be paid in November of 1990 (1990-91 taxes), the director will not advance funds for the payment of taxes on property that is security for a loan being charged less than seven percent interest unless an escrow account has been established on the loan for the payment of taxes. The interest rate being charged is the "loan rate" or "composite rate" where more than one loan (with different interest rates) is secured by the property;

(f) Notwithstanding the provisions of subsection (1)(e) of this rule, the director may advance funds for the payment of taxes on property that is security for a loan being charged less than seven percent interest if the interest rate on the loan was reduced to six

percent under the provisions of the Soldiers' and Sailors' Civil Relief Act. In addition, the director may advance funds to pay property taxes if sufficient funds are not available in the escrow account, by overdrawing the escrow account balance.

(2) The director may allow owners of the security to directly pay the taxes and/or hazard insurance due on the security, subject to the following conditions:

(a) For existing accounts or qualified assumptions of existing accounts, the owner of the property must make written application to the director on a form prescribed by the director. Said application also must conform with the following:

(A) The application must be submitted by September 1st of the year application is made;

(B) At the time of application, payments on the loan must be current and the applicant's credit history must be satisfactory as determined by the director at his sole discretion and,

(C) The loan balance, including any accruals, at the time of application must not be more than 70 percent of the "assessed value" of the security as shown by the county tax assessor.

(D) If a request is approved, any funds the director holds in an applicable escrow account, which are not scheduled for disbursement, will be returned to the borrower and the borrower will be responsible for any future disbursements.

(b) For new loan applications, the applicant must make written request to the director. Said application also must conform with the following:

(A) The loan-to-value ratio must be 80 percent or less of the net appraised value;

(B) The loan must have no restrictions by virtue of FHA mortgage insurance or private mortgage insurance that the lender pay taxes and/or insurance.

(3) All applications, for permission to pay taxes and/or 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.

(4) The director may revoke any permission granted concerning the payment of taxes and/or 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 short-age/deficiency also will constitute immediate revocation by the director of permission for the owner to pay directly any taxes and/or 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.

(5) Sections (1), (2), (3), and (4) of this rule are not applicable to payments made under contracts for the purchase of State-owned property.

(6) Pursuant to the provisions of ORS 407.169, beginning November 1, 1990, escrow accounts are available for the prepayment of estimated property taxes and insurance. All borrowers with loans, and all purchasers buying property from the director on a land sale contract, based on a daily simple interest calculation, may make prepayments of estimated property taxes into an escrow account, subject to the following conditions:

(a) The owner of the property must make written application to the director on a form prescribed by the director;

(b) Applicants will have the option of either repaying the previous year's tax advance as provided by section (1) of this rule, or of permitting said tax advance to remain part of the principal balance on the loan with the payments of said loan adjusted to repay the tax advance with interest over the remaining life of the loan.

(7) 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, fire

and extended coverage premiums, other required insurance premiums, condominium/homeowners dues, and bankrofted amounts. In cases of unassessed new construction, the estimate may be based, inter alia, on the assessment of comparable residential property in the market area.

(8) The director will pay interest on the escrow account as provided by ORS 86.245(1).

(9) Effective May 24, 1995, all escrow accounts on monthly simple interest loans and tax escrows on daily 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 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) If the analysis determines there is not sufficient money in the escrow account to pay the required disbursements, the shortage/deficiency may be advanced by the director. The required escrow payments on the loan will be increased to recover any interest, fee and/or advance by the director for such a shortage/deficiency, or the borrower may repay the advance, interest and/or fee in a lump sum;

(d) 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;

(e) A statement itemizing all escrow account activity, (annual escrow statement) will be provided to the borrower each year.

(10) The following definitions apply to section 9 above:

(a) "Aggregate analysis" - to analyze the escrow account by calculating the sufficiency of escrow funds as a whole, as opposed to calculating components separately.

(b) "Cushion" - 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" - the amount of a negative balance in an escrow account.

(d) "Escrow account" - 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" - a 12-month period that the director establishes for the escrow account.

(f) "Shortage" - an amount by which a current escrow account balance falls short of the target balance at the time of escrow analysis.

(g) "Surplus" - an amount by which the current escrow account balance exceeds the target balance of the account.

(h) "Target balance" - 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.

Stat. Auth.: ORS 86.240, ORS 86.245, ORS 406.030, ORS 407.115, ORS 407.169 & ORS 407.275

Stats. Implemented: ORS 406.030 & ORS 407.275

Hist.: DVA 26-1982(Temp), f. & ef. 10-1-82; DVA 3-1983, f. 1-14-83, ef. 1-15-83 and Suspended by DVA 4-1983(Temp); DVA 4-1983(Temp), f. & ef. 2-1-83; DVA 10-1983, f. 9-8-83, ef. 2-1-84; DVA 13-1983, f. & ef. 11-1-83; DVA 10-1984, f. 10-8-84, ef. 10-15-84; DVA 9-1985, f. 6-20-85, ef. 7-1-85; DVA 2-1989, f. & cert. ef. 6-1-89; DVA 2-1990, f. & cert. ef. 2-1-90; DVA 1-1991, f. & cert. ef. 5-1-91; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93; DVA 5-1995, f. 5-23-95, cert. ef. 5-24-95; DVA 11-1995, f. 9-11-95, cert. ef. 9-22-95; DVA 12-1995, f. & cert. ef. 9-22-95

274-020-0391

Discount for Early Payoff

(1) The balance on some loans and contracts may be discounted in consideration of the loan or contract being paid in full before its final payment date. The amount of the discount will be based upon a mathematical computation which uses a discount rate to compute the present value of the remaining scheduled payment stream of the loan or contract being considered for discount. The discounted amount may be further limited by a percentage based calculation determined by the Director. The Director will periodically fix the discount rate and the percentage based calculation, if any, taking into consideration:

(a) Market conditions (reinvestment opportunities);

(b) Financial statement conditions (health of programs);

(c) Cash flow conditions;

(d) Balance and term of the loan or contract being considered for discount.

(2) The loans and contracts that will be discounted and the discount rate will be periodically determined by the Director and the information will be available to all interested persons making inquiry to the Director. The amount of the discount quoted by the Director shall include a per diem amount that must be added to the quoted payoff amount in order to arrive at a payoff amount for a specific day. The quoted discount amount shall be honored for 30 days following the date of the quote.

(3) Any loan or contract that does not amortize on the agreed-to retirement date will be reamortized and a new payment determined prior to the computation of a discount amount. The reamortized payment amount will be used only for the purpose of calculating the amount of the discount.

(4) Discounts shall not be available on loans or contracts being paid in full by the proceeds from Loan Cancellation Life Insurance or hazard insurance.

(5) This rule does not apply to loans or contracts after a default of the loan or purchase agreement has occurred and settlement negotiations are in process.

(6) No discount shall be given where the loan or contract is being paid in full in connection with a change in ownership of the property securing the loan or the property being purchased on contract.

Stat. Auth.: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177, ORS 407.179, ORS 407.181 & ORS 407.275

Stats. Implemented:

Hist.: DVA 2-1986(Temp), f. & ef. 2-13-86; DVA 8-1986, f. & ef. 8-18-86; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93

274-020-0395

Partial Release of Security

(1) A partial release of security may be granted when the borrower or the contract purchaser of a State-owned property submits a complete application for one and the Director determines that granting the requested release would not jeopardize the Department of Veterans' Affairs' security position.

(2) The remaining property must qualify as security for the loan or contract balance under the provisions of ORS 407.225(3) and OAR 274-020-0325 to 274-020-0340.

(3) Notwithstanding compliance with section (2) of this rule, the Director may require that the loan or contract balance be reduced as consideration for granting the requested release.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.115 & ORS 407.155

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 35, f. 12-19-68, ef. 1-11-69; DVA 39, f. 5-27-71, ef. 6-25-71; DVA 45, f. & ef. 12-1-75; DVA 8-1985, f. 6-12-85, ef. 7-1-85; DVA 12-1985, f. & ef. 12-5-85

274-020-0405

Confidential Nature of Information Submitted by the Borrower

Information submitted by the veteran in support of his application shall be considered confidential and shall not be disclosed to persons outside the department, unless permission is given by

the veteran to release the information, or the information is requested by a public agency in the exercise of its official duty and only then at the discretion of the Director.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 407.181 & ORS 407.201

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0410

Confidential Nature of Information Procured by the Director

Information secured by the Director in connection with a veteran's application for a loan shall be considered confidential and shall not be disclosed to persons outside the employ of the department, unless such information is requested by a public agency in the exercise of its official duty, and only then the release shall be at the discretion of the Director.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 192, ORS 406.030, ORS 407.115, ORS 407.181 & ORS 407.201

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0411

Disclosure of Information and Fees

(1) Information in the custody of the Director of Veterans' Affairs (director) will be disclosed, or protected from disclosure, consistent with the provisions of ORS Chapter 192.

(2) Requests for information can be made verbally, but the director reserves the right to require the request to be in writing, signed and dated, naming or describing the information desired and the date the information is needed. A reasonable period of time must be allowed for the custodian of the records to locate and assemble the requested information. Restrictions may be placed upon where the information will be delivered or made available for inspection. The director shall designate a staff employee to be the department's records custodian, whose function is to perform the duties necessary to manage the department's records in accordance with all applicable laws. These duties may include, but are not limited to, certifying records to be true copies of the original documents on file in the custody of the director.

(3) Mailing lists of Oregon Department of Veterans' Affairs (ODVA) active account holders and/or Vets News recipients may be made available upon payment of the required fee. The mailing lists will not contain the names of persons who submit a written request for deletion of their name from the list on the basis that such disclosure would constitute an unreasonable invasion of privacy.

(4) The following information will not be disclosed except pursuant to an order issued by the director or by the Attorney General of the State of Oregon:

(a) Internal communications of an advisory nature preliminary to any final agency determination of policy or action;

(b) The name of a confidential informant or information submitted to the department in confidence where submission of the information was not required and the department has obliged itself in good faith not to disclose the information.

(5) The following information will not be disclosed except pursuant to an order issued by the Attorney General:

(a) Information relating to the appraisal of real and personal property prior to making a loan secured by that property;

(b) Information of a financial, medical, or personal nature relating to any individual, if such disclosure would constitute an unreasonable invasion of privacy.

(6) Fees will be charged to reimburse the department the cost of making information available or for producing copies of records:

(a) For mailing lists, the fee is derived from the actual production costs. The lists are available in alphabetical or zip code order;

(b) The director may require reimbursement for any additional costs actually incurred by the department;

(c) For all requests for copies of documents, the charge is based on the actual costs incurred for search of files and for documents provided;

(d) For necessary safeguard of documents where a requestor is allowed to research records on department premises, a staff employee, designated by the director, must be present. The fee to be charged for this service will be equal to the hourly pay of the employee designated. In appointing an employee to safeguard departmental records, the director shall consider whether the pay range of the designated employee is reasonable and appropriate, reflecting the technicality and sensitivity of the documents being researched;

(e) The director may waive the fees provided in subsections 6(a), 6(c) and 6(d) of this rule for city, county, state, and federal agencies, and for individuals obtaining information from their own files;

(f) The director may require payment of any and all fees identified in this section, in a form satisfactory to the director, prior to providing any disclosure of documents and/or information. Advance charges for anticipated labor expenses may be made by the director on an estimated basis.

(7) The purchase of a mailing list does not constitute permission to use ODVA's name in any marketing or advertising approach, whether expressly stated, inferred or implied.

Stat. Auth.: ORS 192, ORS 406.030 & ORS 407.115

Stats. Implemented: ORS 192, ORS 406.030 & ORS 407.115

Hist.: DVA 29-1982, f. 12-30-82, ef. 1-1-83; DVA 8-1984, f. 8-6-84, ef. 8-15-84; DVA 6-1986, f. & ef. 5-1-86; DVA 3-1988, f. 6-30-88, cert. ef. 7-1-88; DVA 6-1989, f. & cert. ef. 12-1-89; DVA 2-1993, f. & cert. ef. 1-4-93; DVA 8-1996, f. & cert. ef. 9-23-96

274-020-0420

Director's Decisions Control in All Controversies

(1) The Director shall make all determinations as to the applicant's eligibility for a loan.

(2) The Director shall make all determinations, based upon data and information in the file, as to whether the property offered is acceptable security and whether or not a loan shall be made.

(3) The Director's decision shall be final in all matters pertaining to eligibility and the making of a loan.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 407.115, ORS 407.125 & ORS 407.225

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 3-1981(Temp), f. 4-3-81, ef. 4-6-81; DVA 6-1981(Temp), f. & ef. 8-13-81; DVA 3-1988, f. 6-30-88, cert. ef. 7-1-88

274-020-0421

Review of Loan Determinations and Other Decisions

(1) Any person adversely affected by a decision of a DVA official may write a letter of complaint to the Director. The Director or other designated official shall prepare and deposit in the ordinary mail, or personally deliver, a written response within 30 days of receipt of the written complaint.

(2) If the Director, or other designated official supports the decision, a request may be made for an informal hearing with a designated official at the Salem Central Office of the DVA.

(3) A request for an informal hearing shall be addressed to the Director and shall state the nature of the adverse decision, the date of and the person making the decision, and how the person requesting the hearing is adversely affected. A request for an informal hearing must be received by the Director within 60 days of the date of mailing or personal delivery of the response, provided for by section (1) of this rule. If no letter of complaint was ever written, the requirement for a letter of complaint may be waived, and the request for an informal hearing considered if the request is received by the Director within 90 days of the date of the decision leading to the request for an informal hearing. Unless ODVA received written notice of a complaint, the right to a hearing (both informal and contested) shall expire 90 days after the date the complainant had actual knowledge of, or by the exercise of due care would have had knowledge of, the occurrence in dispute.

(4) Within 30 days from receipt of a request for an informal hearing, the Director shall, by mail, notify the person making the request of the action taken on the request which may be:

- (a) Designating an official to conduct an informal hearing;
- (b) Reversing or modifying the adverse decision;
- (c) Denying the request.
- (5) Any denial of a request for an informal hearing shall state the reason for the denial. A request for an informal hearing may be denied if the Director finds:
 - (a) Litigation involving the issue in dispute is pending or imminent;
 - (b) The person making the request is not the person who would directly benefit from a modification or reversal of the adverse decision (not the real party in interest);
 - (c) A modification or reversal of the decision would affect persons who would not be bound by the modification or reversal (the Director is lacking power to resolve the dispute);
 - (d) The request was not received by the Director within the time allowed by section (3) of this rule.
- (6) If an official is designated to conduct an informal hearing, the person requesting the hearing shall be notified by mail of the name and title of the official designated and the time and place for the hearing. A time for the hearing must be scheduled within 60 days of the hearing request unless otherwise mutually agreed by the parties.
- (7) After conducting an informal hearing, the designated official shall prepare and submit to the Director for approval a written decision. Within 30 days after conducting an informal hearing, a decision approved by the Director shall be mailed to the person for whom the hearing was conducted.
- (8) A decision of the designated official, after approval by the Director, shall be final except when, as defined by ORS 183.310(2), a "Contested Case" exists.
- (9) When a "Contested Case" exists, and a contested case hearing is desired, it must be requested in writing and the request received by the Director within 20 days of the date of the mailing of the decision of the designated official if an informal hearing has been held, or within 20 days of service of the notice in a contested case under ORS 183.415.
- (10) Contested case hearings will be conducted in accordance with the provisions of ORS 183.413 to 183.470 and the Attorney General's Model Rules of Procedure, OAR 137-003-0001 to 137-003-0092

Stat. Auth.: ORS 183, ORS 406.030 & ORS 407.115

Stats. Implemented: ORS 183, ORS 406.030 & ORS 407.115

Hist.: DVA 6-1982(Temp), f. & ef. 3-11-82; DVA 10-1982, f. & ef. 4-15-82;

DVA 1-1987, f. & ef. 3-16-87; DVA 6-1990, f. & cert. ef. 11-26-90

274-020-0430

Effect

These rules and regulations shall have the effect of law and shall be binding in all instances on persons making application for a loan under Article XI-A of the Oregon Constitution and ORS 407.010 to 407.210, but if any part of the regulations are found to be void or illegal, the illegality shall not affect the remaining provisions of the rules and regulations.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406 & ORS 407

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57

274-020-0440

Fees

- (1) The Director of Veterans' Affairs (director) imposes fees for the following:
 - (a) New Loan;
 - (b) Assumption by Eligible Veteran;
 - (c) Transfer of Ownership;
 - (d) Partial Release, Easement, and Modification of Mortgage;
 - (e) Timber and/or Firewood Release;
 - (f) Purchase of State-Owned Property;
 - (g) Dishonored Check;
 - (h) Reissue of Stale, Lost, Destroyed or Missing Document;
 - (i) Mineral Rights and Geothermal Resource Rights Release;
- and
- (j) Veterans' Home Improvement Loan.

(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:

(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;

(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;

(D) Effective with loan applications received on or after February 2, 1998, the director shall charge a loan fee on conventional loans not to exceed 2.25 percent of the gross 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.

(b) Assumption by an eligible veteran under ORS 407.305. Effective with applications received on or after July 1, 1985, the director shall charge a fee of 1.125 percent of the total of the unpaid balance plus any new funds loaned. The minimum service fee shall be \$100;

(c) Transfer of Ownership:

(A) The fee for transfer shall be:

(i) Through June 30, 1985, 1 percent of the unpaid balance;

(ii) Effective July 1, 1985, 1.125 percent of the unpaid balance;

(iii) Effective May 1, 1992, \$450.

(B) No fee will be charged when a transfer results from:

(i) Divorce;

(ii) Death;

(iii) Marriage;

(iv) Transfer of the interest of one or more current owners to the other owner or owners; or

(v) Transfer to a relocation company on an unrecorded contract.

(d) Partial Release, Easement, and Modification of Mortgage. The director will charge the following fees:

(A) \$450 plus the cost of an appraisal for a partial release or modification of mortgage on an urban 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) \$450 plus the cost of an appraisal for a partial release or modification of mortgage on a farm 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;

(C) \$50 for consenting to an easement;

(D) \$100 for partial release involving release of a mobile home which is to be replaced with another home;

(E) \$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;

(F) \$50 for processing request to relocate personal property mobile home;

(G) A larger fee may be charged in complex cases to cover extra processing costs; and

(H) 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.

(e) Timber and/or Firewood Release:

(A) The director shall charge \$200 for a release of more than 7,500 and less than 30,000 board feet of timber, or more than six and less than 20 cords of firewood. No refund will be made after

application. The director shall charge \$1,200 for a release of 30,000 board feet or more of timber, or 20 cords or more of firewood. \$1,000 of the \$1,200 fee will be refunded to the applicant if the request is withdrawn before the director is committed to an appraiser for the cost of a property appraisal. One release of up to and including 7,500 board feet of timber, or up to and including six cords of firewood, will be allowed each calendar year without a fee being charged;

(B) An increased fee may be charged in complex cases to cover extra costs.

(f) Purchase of State-Owned Property:

(A) A credit report fee may be charged equal to 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) A fee of 1.125 percent shall be charged on the amount of the contract on all properties whether or not the purchaser is a veteran. The minimum fee will be \$250. There will be no fee for a cash sale. If improvements in lieu of a cash down payment are part of the purchase agreement, a \$50 fee will be charged for any necessary completion inspection(s) after the first one. The provisions of section (4) of this rule apply to any fee charged;

(C) In the event of cancellation of an offer after acceptance for processing by Loan Processing, but prior to approval, all of the earnest money deposit except \$200 shall be refunded (\$200 to be retained by the director). If an application is canceled after approval, the full amount of the earnest money deposit shall be retained by the director;

(D) Notwithstanding the provisions of paragraph (3)(f)(C) of this rule, the director may refund all of the earnest money deposit if cancellation of the application was necessitated by some unexpected event such as redemption of the property before closing, or the death, disappearance, serious injury, serious illness, job loss, or job transfer of one or more of the parties to the transaction. Parties to the transaction include members of the immediate family.

(g) Dishonored Check. 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;

(h) Reissue of Stale, Lost, Destroyed or Missing Document. 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 \$25 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;

(i) Release of Mineral Rights and Geothermal Resource Rights. The director may charge a fee of \$50 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.

(j) Veterans' Home Improvement Loan:

(A) A credit report fee may be charged for residential mortgage credit reports in an amount not to exceed the amount charged by the credit reporting firm;

(B) An appraisal report fee may be charged in an amount not to exceed the amount charged by the appraiser;

(C) A flood determination fee may be charged in an amount

not to exceed the amount charged by the flood determination company; and

(D) Any other fees, that may be incurred by ODVA, may be charged in an amount not to exceed the amount charged by the provider of the service.

(4) Fees will be collected in advance (except for dishonored checks). Where the director was not made a party to a transaction requiring payment of a fee, and the fee was not paid, the fee is due on demand. If payment is not made after 30 days written notice, it may be added to the amount due on the loan. The fee for dishonored checks may be added to the amount due on the loan when the check is returned by the bank. Any fee added to the amount due on the loan shall bear interest at the same rate as on the principal indebtedness. "Loan" means "contract" where context requires.

Stat. Auth.: ORS 82.300, ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145 & ORS 407.275

Stats. Implemented: ORS 407.135, ORS 407.145 & ORS 407.275

Hist.: DVA 5-1982(Temp), f. & ef. 2-12-82; DVA 16-1982, f. & ef. 6-1-82; DVA 29-1982, f. 12-30-82, ef. 1-1-83; DVA 1-1983, f. 1-14-83, ef. 1-15-83; DVA 9-1983, f. & ef. 7-1-83; DVA 15-1983, f. 12-20-83, ef. 1-1-84; DVA 7-1984, f. 7-25-84, ef. 8-15-84; DVA 7-1985, f. 5-22-85, ef. 7-1-85; DVA 4-1988, f. & cert. ef. 8-15-88; DVA 3-1989, f. & cert. ef. 8-16-89; DVA 5-1990, f. 8-20-90, cert. ef. 10-1-90; DVA 5-1991, f. 7-23-91, cert. ef. 7-24-91; DVA 7-1991, f. 10-31-91, cert. ef. 11-1-91; DVA 7-1992, f. & cert. ef. 5-1-92; DVA 12-1992(Temp), f. & cert. ef. 8-19-92; DVA 3-1993, f. & cert. ef. 1-4-93; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 7-1995, f. & cert. ef. 7-21-95; DVA 10-1995, f. 9-11-95, cert. ef. 9-22-95; DVA 12-1995, f. & cert. ef. 9-22-95; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 1-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 7-1998, f. & cert. ef. 6-23-98

274-020-0445

Assumption of Loan by Eligible Veteran

When a veteran who is eligible to assume a loan under the provisions of ORS 407.305 seeks to acquire property and wishes to assume liability on the loan, the Director of Veterans' Affairs will approve the assumption subject to the following conditions:

(1) The applicant must submit the same evidence of eligibility and the same application as if an application were being submitted for a loan.

(2) The provisions of ORS 407.225(3) do not apply except when additional funds are being requested. If additional funds are not being requested, the applicant may be permitted to assume a loan with a balance in excess of: 95 percent of the appraised value on homes which are real property, 85 percent of the appraised value on homes which are not real property, and 90 percent of the appraised value on farms.

(3) Notwithstanding the provisions of OAR 274-020-0440(3)(h) (Appraisal Fees), if additional funds are not being requested, an appraisal fee will not be collected by the director, and no appraisal of the property will be made. If additional funds are being requested, the provisions of ORS 407.225(3) and OAR 274-020-0440(3)(h) shall apply, and an appraisal of the property will be made.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.225, ORS 407.275 & ORS 407.305

Stats. Implemented: Ch. 238 OL 1995, ORS 407.225 & ORS 407.275

Hist.: DVA 9-1984, f. 8-6-84, ef. 8-15-84; DVA 10-1995, f. 9-11-95, cert. ef. 9-22-95; DV 12-1995, f. & cert. ef. 9-22-95

274-020-0450

Due on Sale

(1) By ORS 407.335(5) the Director has discretion to decide when a second sale or transfer of the property, or any part thereof, securing an ODVA loan, will cause the entire balance of the loan to be immediately due and payable.

(2) Effective with sales, or transfers of ownership, occurring after June 30, 1989, the Director will not declare the entire unpaid balance on any loan to be immediately due and payable because of a second sale, or transfer of ownership, of the property or any part thereof, securing the loan.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.335

DIVISION 21

FORECLOSED AND DEEDED PROPERTY

274-021-0005

Foreclosed and Deeded Property

(1) When properties acquired under ORS 407.135 and 407.145(1) are being sold pursuant to the provisions of ORS 407.375, the sale will be under the following terms:

(a) Must be offered first by sealed bid.

(b) Must be advertised in the local newspaper and comply with the following:

(A) Published at least once during the 15 days prior to the bid opening;

(B) Advise prospective buyers that of the bidders who are persons meeting the eligibility requirements under Article XI-A of the Oregon Constitution (eligible veteran), the one who submits the highest bid shall be given the opportunity to purchase the property for the amount of a higher bid submitted by the highest bidder who is not eligible for a veterans loan. In order to be given an opportunity to match a higher bid, a bidder eligible for a loan under Article XI-A of the Oregon Constitution will have a specified time to match highest bid. The matching bid must be made in writing by 5 p.m. on the date and at the place specified in the notification. The matching bid opportunity is only available to a veteran purchasing the property solely in his or her own name, or with a lawful spouse. If the highest bid is not matched by a person eligible for a loan under Article XI-A of the Oregon Constitution, the highest bid will be accepted;

(C) State the minimum bid that will be accepted.

(2) When properties acquired under ORS 407.135 and 407.145(1) are being sold pursuant to the provisions of ORS 407.377, the sale will be under the following terms:

(a) The person with whom the Director of the Oregon Department of Veterans' Affairs has entered into a personal services contract 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 in the locality where the property is located.

(3) Interest rates:

(a) The interest rate on contracts entered into without work equity on or after June 22, 1996, shall be nine percent fixed. The interest rate on contracts with approved work equity is subject to the provisions of subparagraph (4)(b)(B)(i) of this rule;

(b) 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;

(c) The director may modify the terms of the contract if agreeable to all parties;

(4) 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: Purchase Price — Maximum Length of Contract:

(i) \$63,000 and over — 30 years;

(ii) \$35,000 - \$62,999.99 — 25 years;

(iii) \$15,000 - \$34,999.99 — 15 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 director may accept improvements of the property by the purchaser in lieu of other means of satisfying the down payment requirement, in which case the provisions of ORS 407.375(4) will apply and improvements in lieu of a cash down payment shall be subject to the following conditions and limitations:

(i) The interest rate on the contract shall be 10 percent fixed until the required improvements have been completed, inspected, and a completion letter issued. After the completion letter is issued the director will lower the interest rate to nine percent fixed, adjust the payment to reflect the lower rate, and amortize the remaining principal balance within the remaining term of the contract, provided that the purchaser has complied with the occupancy requirements provided by section (9) of this rule. The adjusted payment will be effective on the first day of the second full month following the director's written approval of the completed improvements;

(ii) Improvements in lieu of a cash down payment will not be allowed unless the contract purchaser will occupy the property being purchased as provided by section (9) of this rule;

(iii) Improvements in lieu of a cash down payment will not be allowed unless the value added to the property by completed improvements is \$500 or more;

(iv) The director will not consent to an assignment of the contract until the required improvements have been completed to the sole satisfaction of the director or payment of what the original down payment would have been at the time of purchase or the new owner of the property signs an agreement agreeing to complete the improvements;

(v) If the purchaser fails to complete all of the improvements within the time allowed by the director or fails to make the property available for inspection by the director's representative, the director will give the purchaser 30 days notice to either complete all of the improvements or to pay a cash down payment. The down payment will be the amount the purchaser would have been required to pay if the property had been purchased without approved work equity. The director will not give any allowance for completion of a portion of the improvements. If purchaser elects to make a cash down payment in lieu of completing improvements, the director will lower the interest rate to 9 percent fixed, reamortize the remaining principal balance on the account, and adjust the principal and interest portion of the regular payment accordingly. Failure to complete all of the improvements or pay a cash down payment will constitute a default under the terms of the Contract of Sale. Thereafter, the director may exercise any or all of the default remedies stated in the contract.

(C) 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, Mobile 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 Mobile Home or Floating Home - 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.

(5) A purchase of property from the Oregon Department of Veterans' Affairs will not be considered a loan under ORS 407.205.

(6) All purchasers must meet the department's repayment ability requirements.

(7) If a prospective purchaser submits more than one bid for the same property, only the highest such bid will be considered.

(8) 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.

(9) A purchaser who states that he or she will be occupying the property in order to pay a lesser percentage of down payment and/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.

(10) 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. If work equity improvements were approved, the director will not give any allowance for completion of all or any portion of the improvements. Following payment of the required additional down payment, the department will reamortize the remaining principal balance on the account and adjust the principal and interest portion of the regular payment accordingly.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.375 & ORS 407.377

Stats. Implemented: ORS 407.135, ORS 407.145, ORS 407.375 & ORS 407.377

Hist.: DVA 8-1982(Temp), f. & ef. 4-6-82; DVA 13-1982, f. & ef. 5-17-82; DVA 7-1983, f. 5-13-83, ef. 5-15-83; DVA 14-1983, f. 11-29-83, ef. 12-1-83; DVA 5-1984(Temp), f. & ef. 7-17-84; DVA 1-1985, f. & ef. 1-15-85; DVA 6-1985, f. 5-22-85, ef. 7-1-85; DVA 11-1985, f. & ef. 11-5-85; DVA 4-1987, f. & ef. 5-1-87; DVA 7-1987, f. 9-30-87, ef. 10-1-87; DVA 5-1990, f. 8-20-90, cert. ef. 10-1-90; DVA 2-1991, f. 5-29-91, cert. ef. 6-3-91; DVA 3-1996, f. 6-21-96, cert. ef. 6-22-96

274-021-0010

Escrow Closings of Contract Sales

Effective with offers accepted by the Director after June 30, 1988:

(1) All contract sales of real or personal property by the Director of Veterans' Affairs shall be closed by a person or firm licensed as an escrow agent under the Oregon Escrow Law (ORS 696.505 to 696.585) or an attorney at law rendering services in the performance of duties as attorney at law.

(2) The escrow agent or attorney shall be selected by the purchaser.

(3) The costs of the escrow closing shall be shared as follows:

(a) The Director of Veterans' Affairs will pay one-half of the escrow agent's fee;

(b) The purchaser will pay one-half of the escrow agent's fee;

(c) Any other closing costs will be paid by the purchaser unless otherwise agreed by the parties.

(4) The requirement for licensed escrow (or attorney) closing shall not be waived except when in the Director's opinion, requiring such closing would cause an undue hardship.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.165 & ORS 407.169

Hist.: DVA 2-1984, f. & ef. 5-3-84; DVA 2-1988, f. 6-6-88, cert. ef. 6-30-88

274-021-0015

Mineral Rights and Geothermal Resource Rights

(1) As used in this rule "mineral" means oil, gas, sulfur, coal, gold, silver, copper, lead, cinnabar, iron, manganese and other metallic ore, and any other solid, liquid or gaseous material or substance excavated or otherwise developed for commercial, industrial or construction use from natural deposits, including mineral waters of all kinds. (This is the same definition as used in ORS 273.775.) As used in this rule "mineral" includes sand and gravel.

(2) As used in this rule "geothermal resource" means the natural heat of the earth, the energy, in whatever form below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances, but including, specifically:

(a) All products of geothermal processes, embracing indigenous steam, hot water and hot brines;

(b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(c) Heat or other associated energy found in geothermal formations; and

(d) Any by-product derived from them. (This is the same definition as used in ORS 522.005.)

(3) The Director of the Oregon Department of Veterans' Affairs (ODVA) may sell, retain, assign, lease, release, develop, market or otherwise administer any mineral rights and geothermal resource rights obtained by ODVA after January 1974 pursuant to ORS 88.720, 406.050, 407.135, or 407.145(1):

(a) Prior to a release or transfer of any interest in mineral or geothermal resource rights pertaining to a property of three acres or more in Clatsop, Columbia, or Washington County, or of 40 acres or more in any other county, ODVA will request a review and recommendation from the Division of State Lands (DSL) regarding the potential for the occurrence of mineral or geothermal resources with value, excluding soil, clay, stone, sand and gravel. ODVA may, but shall not be required to, request a similar review and recommendation from DSL with respect to mineral or geothermal resource rights related to properties of lesser size. In any situation where additional professional services may be required by ODVA, the services shall be provided at the expense of the applicant for the release. ODVA may then, at the director's discretion, administer such rights consistent with this section in any manner that the director determines will advance the interests of the Oregon War Veterans' Fund, including the release by ODVA of all or part of such rights of the related property upon application and payment of the appropriate application fee together with such other consideration, required by ODVA;

(b) An application for any interest in mineral or geothermal resource rights held by ODVA must be completed and submitted directly to ODVA together with the documents and other information listed on the application form or otherwise required by ODVA, together with the appropriate application fee. Any or all of the application fee may be waived by ODVA if such waiver is determined by it to be in the economic interest of ODVA, or if ODVA determines that it would avoid undue hardship.

(4) Upon advice from DSL concerning potential mineral or geothermal resources, ODVA may change the acreage review for any county in Oregon at any time by administrative rule.

(5) Two years after the effective date of this rule, and each biennium thereafter, ODVA and DSL will review the rule and its effects for possible changes.

Stat. Auth.: ORS 88.720, ORS 273.775, ORS 406.030, ORS 406.050, ORS 407.115, ORS 407.135 & ORS 407.145

Stats. Implemented: ORS 88.720, ORS 273.775, ORS 273.785, ORS 407.135 & ORS 407.145

Hist.: DVA 6-1991(Temp), f. 9-25-91, cert. ef. 9-26-91; DVA 3-1992, f. & cert. ef. 3-23-92; DVA 3-1996, f. 6-21-96, cert. ef. 6-22-96

274-021-0020

Forcible Entry and Wrongful Detainer

Pursuant to ORS 105.130(5), in any action brought by the State of Oregon by and through the Director of Veterans' Affairs, pursuant to the provisions of ORS 105.105 to 105.165, to recover the possession of premises to which the Director of Veterans' Affairs is entitled, any officer or employee of the Department of Veterans' Affairs is authorized, on behalf of the Director of Veterans' Affairs, to:

(1) File the complaint; and

(2) Appear in District Court or Justice Court at the first appearance referred to in ORS 105.137, provided that the Attorney General has given written consent to such appearances.

Stat. Auth.: ORS 105.130(5), ORS 406.030 & ORS 407.115

Stats. Implemented: ORS 407.115, ORS 407.135 & ORS 407.145

Hist.: DVA 5-1992, f. & cert. ef. 4-2-92

DIVISION 22

PROCUREMENT OF BENEFITS

274-022-0005

Loan Cancellation Life Insurance

(1) The Director of Veterans' Affairs (DVA), prior to obtaining loan cancellation life insurance for any person who receives or assumes a loan or makes a contract with DVA for the acquisition of a home or farm, and the spouse or former spouse of that person, may enter into a contract with an insurance carrier which allows the carrier to:

(a) Require an application for insurance;

(b) Underwrite classes of prospective insureds on the basis of information, such as age and health status, contained in the application;

(c) Set premium schedules commensurate with risk factors for other than service-connected disability;

(d) Deny payment of benefits for suicide or certain pre-existing, nonservice-connected disability.

(2) The Director will negotiate a contract with the insurance carrier as necessary to insure procurement and maintenance of adequate, solvent, and uninterrupted, long-term insurance coverage.

(3) The insurance contract may provide that loan cancellation life insurance on a loan or contract for the acquisition of a home or farm will be canceled after payments on the loan or contract become four months delinquent. Accounts due monthly are considered four months delinquent when the cumulative delinquency equals four times the standard monthly payment.

(4) Accounts due quarterly, semi-annually, or annually are considered four months delinquent when an amount that would equal four monthly payments (if payments were made monthly) remains unpaid four months after the due date.

(5) The insurance contract may provide that insurance canceled for the above reason cannot be reinstated unless payments are brought current and a new application for insurance is submitted. The provisions of section (1) of this rule will apply to the newly submitted application.

Stat. Auth.: ORS 406 & ORS 407

Stats. Implemented: ORS 407.465 - ORS 407.490

Hist.: DVA 22-1982, f. & ef. 9-22-82; DVA 2-1983, f. 1-14-83, ef. 1-15-83; DVA 11-1983, f. & ef. 9-22-83; DVA 8-1987, f. 11-17-87, ef. 12-1-87

DIVISION 25

VETERANS' LOAN PROGRAM 1990

274-025-0010

Purpose and Objectives

OAR Chapter 274, Division 25, is established to administer and enforce ORS 407.075 through 407.595. These rules, together with the **Loan Origination Guide**, shall implement the Veterans' Loan Program 1990. The program's objective is to provide funds

to finance owner-occupied, residential housing for qualified veterans in the State of Oregon, thereby encouraging home ownership of residential housing by such veterans. Where context allows, the provisions of OAR Chapter 274, Divisions 20, 21, and 22, apply equally to the loans originated after April 1, 1990. Selected words and terms as used in OAR Chapter 274, Division 25, are defined as follows:

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

(2) "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.

(3) "Approved Lender" means any "lending institution" as defined in ORS 407.177(8) who has entered into an agreement with the Oregon Department of Veterans' Affairs (ODVA) to originate residential loans. Savings and loan associations (or others) whose operations are taken over by a federal agency or corporation may not, by that fact alone, be disqualified from being an approved lender.

(4) "Commitment" means a promise made by the ODVA to an approved lender, evidenced by a written commitment letter, setting forth the terms upon which the ODVA will purchase a specific program loan made by the approved lender pursuant to a commitment request, or commitments to make an individual loan to a qualified veteran.

(5) "Commitment Request" means a verbal or written request from an approved lender to the ODVA to purchase a specific program loan.

(6) "ODVA" means the Oregon Department of Veterans' Affairs.

(7) "Home" means any house or dwelling, including out-buildings, and the real property in connection with it, where the veteran has, or will, establish domicile.

(8) "**Loan Origination Guide**" means the manual containing the origination instructions for the Veterans' Loan Program 1990, and any subsequent changes as they are effected.

(9) "Agreement" means the contract between the 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.

(10) "Qualified Insurer" means private mortgage(s) insurance company licensed to do business in Oregon.

(11) "Security Instrument" means a mortgage, deed of trust, or similar document used to perfect the lien on the security by the ODVA. The lien will be a first lien on the home, except:

(a) As otherwise required by Oregon law, or allowed by Oregon law and approved in writing by ODVA; or

(b) 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.

(12) "Security" means all of the real property that is to be acquired for a home, and for which purpose the program loan is requested.

(13) "Veteran" means any eligible veteran as described in OAR 274-020-0200 through 274-020-0200(6)(d).

(14) "Veterans' Loan Program 1990" means all home loans originated after April 1, 1990, but excluding financed contract sales of ODVA owned properties.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179, ORS 407.181 & ORS 407.275

Stats. Implemented: ORS 407

Hist.: DVA 2-1992, f. & cert. ef. 1-2-92; DVA 11-1992(Temp), f. & cert. ef. 8-17-92; DVA 4-1993, f. & cert. ef. 1-4-93; DVA 1-1995(Temp), f. & cert. ef. 3-17-95; DVA 8-1995, f. & cert. ef. 7-21-95

274-025-0020

Approved Lenders

(1) Any "lending institution", as defined in ORS 407.177(8) may apply to become an approved lender by submitting the following information to the Director of Veterans' Affairs (Director)

for review:

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

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

(c) A list of authorized officers; and

(d) Its most recent, audited financial statements. Each approved lender shall make loans for single-family dwellings based on the instructions contained in the rules and in the **Loan Origination Guide**.

(2) A lending institution will qualify as an approved lender if the Director determines that the applicant has the capability and resources to originate loans in a sound and professional manner. The Director shall consider such factors as:

(a) The number and experience of employees available to originate loans; and

(b) The financial capability of the lending institution to originate loans; and

(c) The lending institution's qualifications as a loan originator or as a seller/servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Department of Veteran's Affairs; and

(d) Whether the deposits of the lending institution are insured by the Federal Deposit Insurance Corporation or some other federal agency or corporation; and

(e) The experience and performance of the lending institution in the area of residential lending and any other area of the lending institution's business.

(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 of loans. This agreement shall be in the standard form prescribed by the Director for all approved lenders. Approved lenders shall carry out such agreement in accordance with the procedures set forth in the agreement, the rules, and the **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 **Loan Origination Guide**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179, ORS 407.181 & ORS 407.275

Stats. Implemented: ORS 407.177, ORS 407.179 & ORS 407.181

Hist.: DVA 2-1992, f. & cert. ef. 1-2-92; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93; DVA 1-1995(Temp), f. & cert. ef. 3-17-95; DVA 8-1995, f. & cert. ef. 7-21-95

274-025-0030

Loan Requirements

(1) To be eligible for purchase by the ODVA pursuant to a commitment to an approved lender, a program loan shall be made 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 **Loan Origination Guide**.

(2) Each program loan shall have a final maturity of at least 15 and not more than 30 years from the date of its mailing.

(3) Each program loan shall be secured by a first lien security instrument as defined or allowed pursuant to OAR 274-025-0010(11) and granted by the veteran on a home which is being financed. The veteran shall hold title to the home in fee simple.

(4) No program loan shall be made to refinance an existing loan, unless such loan was a temporary loan for the construction or rehabilitation of a home or other temporary initial financing written for less than 24 months. If a program loan is made to refinance such a loan, the approved lender shall certify to the ODVA that construction or rehabilitation has been satisfactorily completed before the delivery of the program loan for purchase.

(5) 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.

(6) 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.

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

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Stats. Implemented: ORS 407.177, ORS 407.179 & ORS

407.181

Hist.: DVA 2-1992, f. & cert. ef. 1-2-92

274-025-0040

Commitments

(1) Under the Veterans' Loan Program 1990, the ODVA makes commitments to purchase individual program loans from approved lenders, or commitments to make an individual loan to a qualified veteran. The ODVA solicits commitment requests when the ODVA determines that the Veterans' Loan Program 1990 will serve to carry out the purposes of the Act, and when funds are available.

(2) The ODVA shall solicit commitment requests by notifying each approved lender when funds will be available, and the terms upon which program loans will be purchased by ODVA.

(3) Upon issuing a commitment to the approved lender, the commitment letter will contain the following information:

(a) The dollar amount of the commitment; and

(b) The interest rate for the loan; and

(c) The term of the loan; and

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

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

(f) The veteran who will be the borrower; and

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

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

(4) The ODVA will promptly notify approved lenders when it will not accept a commitment request, for whatever reasons.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Stats. Implemented: ORS 407.177, ORS 407.179 & ORS

407.181

Hist.: DVA 2-1992, f. & cert. ef. 1-2-92

274-025-0050

Title Insurance

Each loan shall be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurer licensed by the State of Oregon. Such policy shall be in an amount at least equal to the outstanding principal balance of the program loan. The benefits of the policy shall run to the ODVA as either named insured or assignee. The policy shall not be subject to any exceptions or conditions other than those previously approved by the ODVA.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Stats. Implemented: ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Hist.: DVA 2-1992, f. & cert. ef. 1-2-92

274-025-0060

Hazard Insurance

The home securing a program loan shall be covered by hazard insurance which meets the requirements of the rules and the **Loan Origination Guide**. Such hazard insurance shall be in effect prior to purchase of the program loan, and shall remain in

effect for the term of the program loan. The ODVA shall be named as the mortgagee insured.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Stats. Implemented: ORS 407.155, ORS 407.165 & ORS

407.169

Hist.: DVA 2-1992, f. & cert. ef. 1-2-92

274-025-0070

Flood Insurance

(1) Beginning September 1, 1995, the Director of the Oregon Department of Veterans' Affairs shall require that the location of the security on all loan applications received by the department be reviewed and a determination made as to whether flood insurance will be required as a condition of the loan.

(2) A flood determination fee will be charged to the borrower equal to the amount charged by the flood determination reporting company at the time the application is submitted.

(3) All flood determinations are to be provided for the duration of the loan while it exists in the department's portfolio (more commonly referred to as life-of-loan tracking).

(4) The flood determination company must meet the qualifications as prescribed in the **Federal National Mortgage Association (FNMA) Guide**, a copy of which is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m.

(5) Based on the determination that the security for the loan is located in an area classified as a special flood hazard area, the director shall require the borrower to purchase flood insurance as a requirement of the loan.

(6) If following loan closing, it is determined that the security is located within a flood hazard area as defined by the **National Flood Insurance Reform Act of 1994 (42 USCS 3701-4370a)**, the borrower may be required to purchase flood hazard insurance at no cost to the department. If flood hazard insurance is not voluntarily acquired, the director may force place said insurance and:

(a) Disburse all costs associated with the acquisition of the coverage from the escrow account; or

(b) Add said cost to the balance of the loan and interest will be collected at the note rate; and

(c) Loan payments will be increased to repay the amount advanced.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177 & ORS 407.275

Stats. Implemented: ORS 407.169, ORS 407.177 & ORS 407.275

Hist.: DVA 9-1995(Temp), f. 8-23-95, cert. ef. 9-1-95; DVA 2-1996, f. & cert. ef. 3-22-96

DIVISION 28

VETERANS' HOME IMPROVEMENT LOAN PROGRAM

274-028-0001

Purpose and Objectives

(1) This division is established to administer the provisions of Chapter 214, 1997 Laws as it applies to ORS chapter 407. These rules, together with the Processing Manual, shall implement the Veterans' Home Improvement Loan Program.

(2) The program's objective is to provide funds to finance qualified improvements of owner occupied, residential housing for qualified veterans in the State of Oregon. Where context allows, the provisions of OAR chapter 274, divisions 020, 021, 022 and 025 apply equally to the Veterans' Home Improvement Loan Program loans for which applications are received on or after November 12, 1997. No improvement will be financed that is inconsistent with the provisions of ORS chapter 407, ODVA's

Processing Manual, section 143 of the Internal Revenue Code of 1986 and any subsequent changes as they are effected. Copies of section 143 of the Internal Revenue Code of 1986 and the Processing Manual are on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m.

Stat. Auth.: Ch. 214 OL 1997, ORS 406.030, ORS 407.115 & ORS 407.125

Stats. Implemented: Ch. 214 OL 1997, ORS 407.115 & ORS 407.125

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0005

Definitions

Selected words and terms as used in OAR chapter 274, division 028, are defined as follows:

(1) Veterans' Home Improvement loan means a loan or loans issued pursuant to OAR 274-028-0001 for not more than the total loan right where said loan funds are used to improve the basic livability of the home as defined in OAR 274-025-0010(7).

(2) Qualified improvements means the remodel or improvement of an existing home which will substantially enhance or protect the basic livability of the home.

(3) Processing Manual means the manual containing the policy for the Veterans' Home Improvement Loan Program, and any subsequent changes as they are effected.

(4) Veterans' Home Improvement Loan Program means all veterans' home improvement loans for which applications are received on or after November 12, 1997.

(5) Existing loan means any loan or loans obtained by the veteran to purchase and/or improve the property used as security for a loan with the Oregon Department of Veterans Affairs (ODVA).

(6) Loan to Value Ratio is the loan amount plus any outstanding balance owed to ODVA on the security divided by the net appraised value.

Stat. Auth.: Ch. 214 OL 1997 & ORS 406.030

Stats. Implemented: Ch. 214 OL 1997 & ORS 406.030

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0010

Interest Rate

As provided by ORS 407.327, the interest rate on veterans' home improvement loans for which applications were received on or after November 12, 1997, shall be fixed and consistent with OAR 274-020-0341.

Stat. Auth.: Ch. 214 OL 1997 & ORS 407.327

Stats. Implemented: Ch. 214 OL 1997 & ORS 407.327

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0015

Approval of Veterans' Home Improvement Loans

Veterans' home improvement loans will be processed using FNMA guidelines as they relate to the borrower's ability and willingness to repay and the borrower having required funds for closing. A copy of these guidelines is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and is available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m.

Stat. Auth.: Ch. 214 OL 1997 & ORS 407.115

Stats. Implemented: Ch. 214 OL 1997 & ORS 407.115

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0020

Terms of Veterans' Home Improvement Loans

(1) The veterans' home improvement loan must be placed in the first lien position on the security or be an immediate subsequent lien to an existing ODVA lien. The first ODVA lien and any immediate subsequent lien made on the security by the director shall be deemed collectively as a first lien on the security.

(2) The net appraised value will be used as the basis for determining the maximum veterans' home improvement loan subject to statutory limitations.

(3) When a veterans' home improvement loan is made on a security with an existing balance owed to the director, the total of the unpaid balance of the existing loan and the veterans' home improvement loan shall not exceed 80 percent of the net appraised value as determined by the director.

(4) When a veterans' home improvement loan is made on a property where no balance is owing, the veterans' home improvement loan shall not exceed 95 percent of the net appraised value as determined by the director. If the loan-to-value ratio is greater than 80 percent of the net appraised value, the loan must be insured by mortgage insurance consistent with ORS 407.485.

(5) All existing nonamortizing ODVA loans on the security must be reamortized to bring the principal and interest payment and final payment date into conformance with ODVA policy as identified in the Processing Manual. A copy of the manual is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m. All other terms of the existing loan on the security remain unchanged.

(6) Depending upon the loan amount, the maximum term of a home improvement loan may not exceed 20 years.

Stat. Auth.: Ch. 214 OL 1997, ORS 407.205, ORS 407.275 & ORS 407.485

Stats. Implemented: Ch. 214 OL 1997, ORS 407.205, ORS 407.275 & ORS 407.485

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0025

Appraisal of Property

An appraisal may be made at the discretion of the director to assist in establishing the net appraised value. A fee will be charged in accordance with OAR 274-020-0440.

Stat. Auth.: ORS 406.030 & ORS 407.115

Stats. Implemented: ORS 406.030 & ORS 407.115

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0030

Transfer of Ownership

(1) The director may declare all veterans' home improvement loan sums to be immediately due and payable if all or part of the security is sold or otherwise transferred by the borrower to anyone other than those qualified persons identified in ORS 407.275.

(2) The director shall be notified in writing by the borrower of any transfer of ownership or right to possess the security, including to those qualified persons identified in ORS 407.275, that is used as security for a home improvement loan with ODVA.

(3) The provisions of OAR 274-020-0380(2), (3), (4) and (5) apply to any transfer on a veterans' home improvement loan.

Stat. Auth.: Ch. 214 OL 1997, ORS 406.030, ORS 407.115, ORS 407.275, ORS 407.305 & ORS 407.335

Stats. Implemented: Ch. 214 OL 1997 & ORS 407.275

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0035

Taxes, Hazard Insurance and Flood Insurance

(1) For veterans' home improvement loans which are subsequent to an existing loan, the director may pay taxes and/or as applicable, hazard and/or flood insurance on the existing loan until the existing loan is paid in full, after which it will be the borrower's responsibility to pay these items directly to the county and/or as applicable the insurance carrier.

(2) If the borrower lets the taxes become a lien against the security and/or fails to maintain the required insurance, the director may pay the taxes and/or insurance in order to protect ODVA's lien and if so paid, will collect the amount paid by ODVA from the borrower through an escrow account per the provisions of OAR 274-020-0388.

Stat. Auth.: Ch. 214 OL 1997, ORS 407.115, ORS 407.165 - ORS 407.181 & ORS 407.275

Stats. Implemented: Ch. 214 OL 1997, ORS 407.165 - ORS 407.181 & ORS 407.275

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

274-028-0040

Title Insurance

Each loan shall be covered by a title insurance policy as designated by the director at the borrower's expense.

Stat. Auth.: ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Stats. Implemented: ORS 407.115, ORS 407.177, ORS 407.179 & ORS 407.181

Hist.: DVA 6-1997, f. & cert. ef. 10-22-97

DIVISION 30

WAR VETERANS' ORGANIZATIONS

274-030-0500

Definitions for 274-030-0500 to 274-030-0575

Whenever used in these rules or any amendments thereof, or in any blank form, document, publication, or written instrument of any kind prescribed, provided, published, issued, or used by the Director of Veterans' Affairs of the State of Oregon or any of his duly authorized agents or employees in connection with the administration of the provisions of ORS 406.310 to 406.340, providing for distribution of funds to organizations and counties for rehabilitation services, the terms herein defined shall have the meanings herein set forth unless the context of the words with which a term is used shall clearly indicate a different meaning:

(1) "Director" shall mean Director of Veterans' Affairs for the State of Oregon.

(2) "Advisory Committee" shall mean the Advisory Committee to the Director of Veterans' Affairs as provided for in ORS 406.210.

(3) A "war veterans' organization" shall mean a veterans' organization accredited by the U.S. Veterans Administration, which has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding application, by a part-time or full-time paid service officer.

(4) "County" shall mean a county which carries on a program of veterans' rehabilitation work and which contracts for or employs a part-time or full-time service officer.

(5) "Funds Available" shall mean the funds remaining from those that have been designated by the Director, with approval of the Advisory Committee, to aid organizations and counties in connection with their respective programs of service to war veterans.

(6) "County Service Officer" shall mean a person contracted with or employed as a part-time or full-time agent or employee of the governing body of the county whose duty is to carry on a program of rehabilitation and service to veterans.

(7) "Organization Service Officer" shall mean a part-time or full-time paid state or national employee of a veterans' organization who is accredited by the U.S. Veterans Administration and employed to represent veterans before rating boards of the U.S. Veterans Administration.

(8) "Voluntary Service Officer" shall mean an appointee of a County Court or Board of Commissioners who acts as County Service Officer without remuneration.

(9) "Rehabilitation and Service". For the purpose of these rules, the words "rehabilitation" and "service to veterans" shall be synonymous and shall be interpreted to mean assistance rendered by paid organization service officers accredited by the U.S. Veterans Administration.

(10) "Rehabilitation Program for Two Years Preceding". For the purpose of these rules the phrase, "**However, a veterans' organization does not qualify for benefits under ORS 406.310 unless it has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding**", is interpreted to mean that, for the two years immediately preceding application for benefits under ORS 406.310, a veterans' organization must have in its employ a part-time or full-time paid service officer who is accredited by the U.S. Veterans Administration and who, during the past two years, has been active in representing veterans before the rating boards of the Portland Regional Office of the U.S. Veterans Administration.

(11) "Benefits" shall mean funds available for distribution to war veterans' organizations and counties of the State of Oregon under ORS 406.310 to 406.330.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0505

Original Application

Each organization desiring to apply for benefits under ORS 406.310 to 406.340 must submit an application in writing to the Director before July 15th of the year of application. The application shall set out the organization's eligibility for benefits as defined by law, together with a statement covering its rehabilitation program carried out for a period of at least two years immediately preceding. There shall be attached to said application as an exhibit a statement of its expenditures for such work for said period of time and a copy of the approved budget for its rehabilitation program for the forthcoming fiscal year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.310 - ORS 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0506

Late Applications

Any application filed after July 15 for participation in Department of Veterans' Affairs funds for the current fiscal year will be granted by the Director, with approval of the Advisory Committee, only if sufficient funds are available. This rule applies to both late applications and a request for an increase in funds because of proposed additional expenditures.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.210 & ORS 406.310 - ORS 406.340

Hist.: DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0510

Subsequent Application

Each organization which has received benefits during the preceding fiscal year and which desires to apply for benefits during the forthcoming year shall submit a request to the Director in writing before July 15th and shall attach to the application a copy of its approved budget for the forthcoming year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.310 - ORS 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0515

Allocation of Funds

Upon receipt of said applications, the merits of each application shall be determined by the Director, with approval of the Advisory Committee, and then the allocation of funds shall be made, and the organizations shall be notified regarding their entitlement to funds. Funds will be allocated on a fiscal year basis starting July 1st and ending June 30th.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.210 & ORS 406.310 - ORS 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0520

Quarterly Reports and Audits

Veterans' organizations found eligible to receive benefits shall submit a quarterly report of the activities of their State Service Officers and a quarterly report of the expenses of their State Service Officers on forms prescribed by the Director before reimbursements may be authorized. The Director may audit and examine the activities and expenditures of war veterans' organizations in connection with their programs of service to war veterans before approving reimbursements.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030 & ORS 406.330

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0525

Fiscal Division of Funds

Of the funds available for the biennium for disbursement to veterans' organizations under ORS 406.310, not more than one-half shall be disbursed during the first fiscal year of the biennium.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 406.310 & ORS 406.330

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0530

Distribution of Funds

Distribution of funds available for this purpose will be made by reimbursing quarterly the participating organizations. Such distribution will be based on approved budgeted expenditures.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 406.310 & ORS 406.330

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0535

Limitation on Distribution of Funds

Unless otherwise decided by the Director, with approval of the Advisory Committee, no organization shall receive from the Director more than 50 percent of its approved budget, nor more than 50 percent of actual budgeted expenditures. However, in those instances where the national headquarters of an organization bears the major portion of its State Service Officer expenses, the state headquarters of that organization may consider as its State expense that portion of the annual dues of its members that are sent to its national headquarters for the purpose of paying a portion of the expenses of its State Service Officer. To meet the terminology of any organization affected by this section, the terms "State Service Officer" and "National Service Officer" are deemed synonymous.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 406.210, ORS 406.310 & ORS 406.330

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

Counties

274-030-0545

Application

Counties desiring to apply for benefits under ORS 406.310 shall apply in writing and shall submit amounts contained in a budget approved by the Advisory Committee for salaries and general expenses for their respective County Service Officer departments before July 15th of the year in which they wish to receive benefits.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.210, ORS 406.215, ORS 406.310 & ORS 408.410

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0550

Late Applications

Any application for benefits filed after July 15 will be granted by the Director, with approval of the Advisory Committee, only if sufficient funds are available. This rule applies to both late applications and a request for an increase in funds because of proposed additional expenditures.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.210, ORS 406.215 & ORS 408.410

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0555

County Programs

The governing body of counties which have qualified for funds shall submit quarterly reports of expenses of their county veterans' service officer programs, and county service officers shall submit quarterly reports of their activities on forms provided by the Director before reimbursement shall be authorized.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 408.410

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0560**Quarterly Reports and Audits**

Quarterly reimbursements to counties shall be approved for payment only after the service officer's report and the county report of expenditures have been received by the Veterans Services Division on forms prescribed by the Director. The Director may audit and examine the activities and expenditures of counties in connection with their programs of service to war veterans before approving reimbursements.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030 & ORS 408.410

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0565**Fiscal Division of Funds**

(1) Of the funds available for the biennium for disbursement to counties, not more than one-half shall be disbursed during the first fiscal year of the biennium.

(2) The maximum reimbursement to counties during the fiscal year shall be 75 percent of the approved budget expenditures, not to exceed \$12,500.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030 & ORS 406.310

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0570**Distribution of Funds**

The Director, with the approval of the Advisory Committee, shall determine the maximum amount of benefits payable to each county. Reimbursements will not be allowed for capital outlay.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 406.310 & ORS 408.410

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

274-030-0575**Payments and Adjustments**

Payments shall be made quarterly at the rate of reimbursement approved by the Advisory Committee; however, no more than 75 percent of the approved authorized funds shall be paid during the first three quarters of any fiscal year. After the required reports for the fourth quarter of the fiscal year have been filed with the Director, the total expenditures for the year by each county shall be calculated and applied against its authorized annual reimbursement, whereupon adjustment shall be made to allow the county to be reimbursed to its full entitlement for the year; however, reimbursement shall not exceed the maximum amount set forth for that county for the year as approved by the Advisory Committee. Reimbursement to any participating county shall not exceed \$12,500 during any fiscal year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, ORS 406.310 & ORS 408.410

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84

DIVISION 35**GRANTS, DONATIONS AND GIFTS ACCEPTED BY ODVA****274-035-0005****Grants, Donations and Gifts Accepted by ODVA**

The Director of Veterans' Affairs may accept grants, donations, or gifts and deposit or disburse the proceeds from these as the Director deems appropriate for the benefit to Oregon's veterans, spouses or dependents:

(1) Any grants, donations, or gifts that are accepted by the Director and that are designated, shall only be used for the purpose specified, unless the limitations are released by the donor or law.

(2) Any grants, donations, or gifts that are accepted by the Director, unless otherwise designated for a specific purpose, may be used for any purpose reasonably designated to benefit Oregon's veterans, their widows and dependents.

(3) Any undesignated property, real or personal, that is accepted by the Director in the form of a grant, donation, or gift may be sold and the proceeds may be used for any purpose reasonably designated, including the deposition to the Veteran Home Trust Fund. Any designated property, real or personal, that is accepted by the Director also may be sold and the proceeds used for the benefit of the specified purpose, unless the limitations are released by the donor or law.

(4) Unless otherwise specified by the individual(s) or organization(s) making the grant(s), donation(s), or gift(s) accepted by the Director, the Director will determine which grant(s), donation(s), or gift(s) may be fully expended and those in which only the interest earnings may be disbursed.

Stat. Auth.: ORS 406.050, ORS 408.510 & ORS 408.530

Stats. Implemented: ORS 408.090

Hist.: DVA 3-1994, f. & cert. ef. 5-25-94

DIVISION 40**OREGON VETERANS' HOME****274-040-0015****Eligibility for Admission to the Oregon Veterans' Home**

(1) To be eligible for admission to the Oregon Veterans' Home (home), an applicant must be:

(a) A resident of Oregon on the date of application;

(b) Able to pay all costs of care not paid by the United States Department of Veterans Affairs;

(c) A veteran as defined by **United States Code, Title 38**, section 101 (This publication is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.); and

(d) In need of nursing home care.

(2) An applicant must have a medical examination by a physician within 90 days prior to the date of admission. The results of the examination must state that the applicant:

(a) Does not require medical care for which the home is not equipped or staffed to provide; and

(b) Does not have violent traits which may prove dangerous to the applicant, residents of the home, staff or others, provided however, that nothing in this section shall be interpreted to prevent the admission of residents diagnosed with Alzheimer's Disease or other dementia for whom the facility is equipped and prepared to provide care for common behavior problems and recommended behavior management, and that no one shall be denied admission on the basis of being a potential danger to self or others unless that condition is documented by the attending physician.

(3) Eligible veterans shall be admitted to the home in priority order based on the date of completed applications, except that recipients of the Medal of Honor shall have first priority.

Stat. Auth.: ORS 406.030, ORS 406.050, ORS 408.510, ORS 408.520 & ORS 408.530

Stats. Implemented: ORS 406.030, ORS 406.040 & ORS 406.050

Hist.: DVA 3-1998, f. & cert. ef. 3-13-98

274-040-0020**Review of Decisions and Procedures for Hearings**

(1) Any person adversely affected by a decision of an ODVA official may write a letter of complaint to the Director. The Director shall prepare and send a written response within 30 days of receipt of the written complaint.

(2) If the Director supports the ODVA official's decision, a request may be made within 60 days of the date of mailing of the director's response for an informal hearing with a designated official.

(3) A request for an informal hearing shall be addressed to the Director and shall state:

(a) The nature of the adverse decision;

(b) The date of the decision;

(c) The name of the person making the decision; and

(d) How the person requesting the hearing is adversely affected.

(4) Unless ODVA received written notice of a complaint, the right to a hearing (both informal and contested) shall expire 90 days after the date the complainant had actual knowledge of, or by the exercise of due care would have had knowledge of, the occurrence in dispute.

(5) Within 30 days from receipt of a request for an informal hearing, the Director shall notify the person making the request of the action taken on the request which may be:

(a) Designating an official to conduct an informal hearing;

(b) Reversing or modifying the adverse decision;

(c) Denying the request and reason(s) for denial.

(6) If an official is designated to conduct an informal hearing, the person requesting the hearing shall be notified by mail of the name and title of the official designated and the time and place for the hearing. A time for the hearing must be scheduled within 60 days of the hearing request unless otherwise mutually agreed by the parties.

(7) After conducting an informal hearing, the designated official shall prepare and submit to the Director for approval a written decision. Within 30 days after conducting an informal hearing, a decision approved by the Director shall be mailed to the person for whom the hearing was conducted.

(8) A decision of the designated official, after approval by the Director, shall be final except when, as defined by ORS 183.310(2), a Contested Case exists.

(9) When a Contested Case exists, and a contested case hearing is desired, it must be requested in writing and the request received by the Director within:

(a) 20 days of the date of the mailing of the decision of the designated official if an informal hearing has been held; or

(b) 20 days of service of the notice in a contested case under ORS 183.415.

(10) Contested case hearings will be conducted in accordance with the provisions of ORS 183.413 to 183.470 and the Attorney General's Model Rules of Procedure, OAR 137-003-0001 to 137-003-0092.

Stat. Auth.: ORS 183, ORS 406.030, ORS 406.040, ORS 408.360 & ORS 408.380

Stats. Implemented: ORS 183, ORS 406.030, ORS 408.360 & ORS 406.040

Hist.: DVA 5-1998, f. & cert. ef. 4-22-98
