

Interim Process for Determining Spousal Income Qualifications in Jurisdictions that Recognize Same-Sex Marriages

1. Purpose. Effective immediately, the Department of Veterans Affairs (VA) will, to the extent legally possible, begin reviewing applications for the home loan guaranty benefit for same-sex married couples in a manner consistent with processes currently used for opposite-sex married couples.

2. Intent. VA is focused on implementing any changes necessary to ensure all Veterans and their families receive the benefits they have earned and deserve.

3. Discussion. Previously, if a Veteran obtained a loan with anyone other than his or her opposite-sex spouse, VA could only guarantee the Veteran's portion of the loan. On September 4, 2013, the Attorney General of the United States announced that the President had directed the Executive Branch to cease enforcing statutory language in title 38, United States Code, defining a "spouse" or "surviving spouse" as someone of the opposite sex. As a result of the President's directive, VA and the Department of Justice are working diligently to provide comprehensive guidance on the delivery of benefits to same-sex married Veterans, including guidance for determining applicable state law when establishing the validity of a marriage. In the meantime, VA will now review applications for the home loan guaranty benefit submitted by married same-sex couples. On a case-by-case basis, VA will determine whether same-sex married couples can use both spouses' incomes to qualify for a loan.

4. Lender Processing. Lenders receiving loan applications from same-sex married couples should forward the following information to the appropriate VA Regional Loan Center for further review: (1) date and State of marriage; (2) State of residence at time of marriage; (3) State where subject property is located; (4) current State of residence; and (5) estimated date of loan closing. VA staff will then notify the lender if both spouses' incomes may be applied. If so, lenders should process the loan in WebLGY as "Sole Ownership," as they would with loans made to opposite-sex married couples.

5. Questions. Direct any questions on this Circular to Ms. Erica Lewis at lgylegal.vbavaco@va.gov.

6. Rescission: This circular is rescinded January 1, 2015.

By Direction of the Under Secretary for Benefits

Michael J. Frueh
Director, Loan Guaranty Service

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