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DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 36

RIN 2900-AP77

Loan Guaranty: Delegation of Authority

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) loan guaranty regulations to correct an oversight in the delegation of authority to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom. This document also incorporates into regulatory form delegatory authority already granted certain VA loan guaranty officials to administer and manage properties acquired by VA.

DATES: Effective Date: [insert date of publication in FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Bell III, Assistant Director for Loan Policy and Valuation (262), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, telephone (202) 632-8786. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: VA is amending 38 CFR 36.4345(b)(1), Delegation of authority, to add Principal Under Secretary for Benefits and Deputy Under Secretary for Economic Opportunity to the list of VA employees who hold authority to exercise the

powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom. VA is also adding to the list Deputy Director, Loan Guaranty Service; Assistant Director, Loan Guaranty Service; and Realty Officer, Loan Guaranty Service.

The positions of Principal Under Secretary for Benefits and Deputy Under Secretary for Economic Opportunity were not originally included in 38 CFR 36.4345(b)(1) because they did not exist at the time the regulation was promulgated. VA inadvertently omitted the delegatory authority to the positions of Deputy Director, Assistant Director, and Realty Officer Loan Guaranty Service. Accordingly, VA is amending this regulatory provision to add these positions to the list of VA employees to whom the authority to exercise the powers and functions of the Secretary with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom.

VA is removing from 38 CFR 36.4345(b)(1) the positions of Director, Medical and Regional Office Center and Director, VA Regional Office and Insurance Center. Under VA's current administrative framework, the issues related to the guaranty and insurance of loans fall outside their subject matter jurisdiction.

VA is further amending 38 CFR 36.4345 to add a new paragraph (b)(3), to delegate authority to the position of Supervisory Realty Specialist to act on behalf the Secretary to execute and deliver necessary and appropriate instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or any right, title, or interest therein, for any purpose authorized by 38 U.S.C., chapter 37. The delegation of

authority to Supervisory Realty Specialist was not originally regulated, but is instead found in a formal letter of delegation signed on July 25, 2013, by the Secretary.

Finally, VA is amending the authority citation to include additional support for delegations of authority. In addition to 38 U.S.C. 3720, which was originally cited, VA is adding 38 U.S.C. 512, an express provision that authorizes further delegation by the Secretary.

Administrative Procedure Act

This final rule only includes amendments that are technical and nonsubstantive. There is nothing interpretive contained in these amendments. Accordingly, this rule exempts from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by OMB, as “any regulatory action that is likely to

result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and we have determined that this rule is not an economically significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, applies only to rules for which an agency is required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b) or any other law. 5 U.S.C. 603(a). The RFA does not apply to this rulemaking because VA has found good cause to publish this rule without notice and comment pursuant to 5 U.S.C. 553(b).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.114, Veterans Housing—Guaranteed and Insured Loans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on August 22, 2016, for publication.

Dated: August 22, 2016.

Jeffrey Martin,
Office Program Manager,
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.

List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs-
housing and community development, Loan programs-veterans, Manufactured
homes, Mortgage insurance, Reporting and recordkeeping requirements,
Veterans.

For the reasons discussed in the preamble, the Department of Veterans Affairs
amends 38 CFR part 36 as follows:

PART 36--LOAN GUARANTY

1. The authority citation for part 36 is revised to read as follows:

Authority: 38 U.S.C. 501 and 3720.

2. Amend § 36.4345 by revising paragraph (b)(1) and adding paragraph (b)(3)

to read as follows:

§ 36.4345 Delegation of authority.

* * * * *

(b)(1) Designated positions are as follows:

- (i) Under Secretary for Benefits.
- (ii) Principal Deputy Under Secretary for Benefits.
- (iii) Deputy Under Secretary for Economic Opportunity.
- (iv) Director, Loan Guaranty Service.
- (iv) Director, Regional Office.
- (v) Deputy Director, Loan Guaranty Service.
- (vi) Assistant Director, Loan Guaranty Service.
- (vii) Loan Guaranty Officer.
- (viii) Assistant Loan Guaranty Officer.
- (ix) Realty Officer, Loan Guaranty Service.

* * * * *

(3) An employee of the Department of Veterans Affairs heretofore or hereafter appointed to, or lawfully filling, the position of Supervisory Realty Specialist is hereby delegated authority to act on behalf the Secretary to execute and deliver necessary and appropriate instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or any right, title, or interest therein, for any purpose authorized by 38 U.S.C., chapter 37.

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