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CHAPTER 274
DEPARTMENT OF VETERANS' AFFAIRS

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CONTACT: Jennifer Donovan 700 Summer St NE
503-881-5903 Salem, OR 97301
jennifer.donovan@odva.state.or.us

Filed By:
Jennifer Donovan
Rules Coordinator

RULES:

274-020-0280, 274-020-0325, 274-020-0341, 274-020-0348, 274-020-0355, 274-020-0360, 274-020-0388, 274-020-0440

AMEND: 274-020-0280

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Specifies number of home loan applications a veteran may have

CHANGES TO RULE:

274-020-0280

Number of Applications Permitted ¶

(1) ~~A~~ Except as provided in section (2) and (3) of this rule, a veteran may have only one ODVA loan application ~~for a~~ loan pending at any time. ¶

(2) A veteran may make application for another loan if conditions exist which entitle ~~him~~ the veteran 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 an advance for improvements provided the security for the loan is the primary residence~~ the veteran presently has a state loan.

Statutory/Other Authority: ORS 406.005 & 407.115

Statutes/Other Implemented: ORS 407.205 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-020-0325

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Specifies types of security that may be used for home loan

CHANGES TO RULE:

274-020-0325

Security for the Loan ¶

(1) The home or farm offered as security shall be owned in fee simple 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 for the loan shall consist of real or personal property and the ~~security instrument~~ mortgage or trust deed shall include all property to be acquired as a home ~~but, The Director may allow~~ more than one parcel of real property ~~may~~ to be included in the security.¶

(4) All security ~~must be improved to supply a home for the applicant, and it must be in exist~~ for the loan must include a home that is completed and ready for occupancy at the time the loan is closed.

Statutory/Other Authority: ORS 406.005 & 407.115

Statutes/Other Implemented: ORS 407.155, ~~407.225~~ 075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-020-0341

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes determination of interest rates for home loans

CHANGES TO RULE:

274-020-0341

Interest-Rates for Loans ¶¶

(1) The Director, ~~with the advice of the Advisory Committee,~~ will prescribe interest rates for loans to be funded by the ~~Oregon Department of Veterans' Affairs~~ pursuant to this division. In prescribing interest rates, the ~~D~~
~~epartment~~Director will consider the following factors:¶¶

- (a) The current value of funds;¶¶
- (b) The solvency of the Department's Loan Program; and¶¶
- (c) The rates' effect on Veterans.¶¶

(2) In prescribing interest rates, the Department also may consider factors including, but not limited to the following:¶¶

- (a) The projected value of funds;¶¶
- (b) Any Federal tax law restrictions;¶¶
- (c) Actual or projected conventional mortgage rates;¶¶
- (d) The availability of funds;¶¶
- (e) Actual or projected loan demand;¶¶
- (f) The loan purpose; and¶¶
- (g) The source(s) of funds.¶¶

(3) The Director may prescribe rates of interest of up to two percent per annum more than the applicable basic rate determined under ~~Subsections~~ (1) and (2) above for loans used to acquire ~~mobile homes and houseboat~~
manufactured homes if, upon consideration of the factors described in ~~Subsection~~ (1) above, the Director determines that there is an economic need for such higher rate of interest.¶¶

(4) The Director periodically may change the prescribed rate of interest on a funded loan consistent with ORS 407.325(2) and applicable loan documents. In changing a prescribed rate of interest, the Director may exceed the limits in ORS 407.325(2) if the Director determines, in the Director's sole discretion, that such a change reduces the probability that invoking the provisions of section 4, Article XI-A of the Oregon Constitution will become necessary.¶¶

(5) The Director periodically may change the prescribed rate of interest on a loan to be funded by the ~~Oregon Department of Veterans' Affairs~~ to reflect reconsideration of, or changes in, factors considered under ~~Subsections~~ (1) and (2) above, or in consideration of additional factors.¶¶

(6) The Director may apply different rates of interest to different loans, depending upon factors including, but not limited to the following:¶¶

- (a) The time of an initial loan or commitment to fund a loan;¶¶
- (b) The initial rate of interest on a loan;¶¶
- (c) The type of loan;¶¶
- (d) The status of the borrower;¶¶
- (e) The status of the loan security;¶¶
- (f) The perceived risk associated with the loan;¶¶

(g) Whether or not the department agreed to maintain an interest rate commitment within a certain range or for a certain time; and¶¶

(h) Whether or not the applicant abandoned a previous loan application or loan commitment.¶¶

(7) The Department will endeavor to record prescribed interest rates as reasonably as it is practical ~~for the Department to do so, in its Tables and Codes Manual. This manual will generally be available for viewing at the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, during regular business hours.~~

Statutory/Other Authority: ORS ~~406.030,05~~ & 407.115, ~~407.325, 407.327~~

Statutes/Other Implemented: ORS ~~407.325, 407.327~~ 075 to 407. 385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-020-0348

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes the grounds the agency uses for refusing to make a home loan

CHANGES TO RULE:

274-020-0348

Grounds for Refusing to Make a Loan ¶

The Director may refuse to make a loan to any applicant ~~if he finds~~ based on any of the following reasons:¶

- (1) Prior loan experience with an applicant was unsatisfactory, including, but not limited to, late payment or nonpayment 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 determined by the Department of Veterans' Affairs (Department) by applying relevant industry standards.¶
- (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 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 24 months, and the construction was completed not more than 18 months; before ~~submitting an application to the Director~~ the veteran applied for a loan;¶¶
- (g) If the application is for amount spent on the purchase of, or the value of, land only (whichever is less) and construction commences within 24 months of land acquisition and the loan is funded within 18 months of the start of construction.¶¶
- (12) The applicant does not meet the applicable underwriting or industry property standards as determined by the Department.¶¶
- (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.

Statutory/Other Authority: ~~ORS 183, 286, 406.030, 407.115, 407.135, 407.145, 407.275, 407.305, 407.37~~
406.005 & 407.115

Statutes/Other Implemented: ~~ORS 407.115, 407.125, 407.179, 407.225~~075 to 407. 385; Oregon Constitution
Article XI-A, Section 3

AMEND: 274-020-0355

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Procedures for closing loans in escrow

CHANGES TO RULE:

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 696.590), 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 closing of contract sales of State-owned property, see OAR 274-21-010.}~~¶

(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.

Statutory/Other Authority: ORS 406, ~~407.005~~ & 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-020-0360

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes when loan funds are disbursed

CHANGES TO RULE:

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.

Statutory/Other Authority: ORS 406.005 & 407.115

Statutes/Other Implemented: ORS 407.125, 407.165 to 407.385; Oregon Constitution Article XI-A, Section 3

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 paid in November of 1990 (1990-91 taxes) through November of 2003 (2003-2004 taxes), the ¶Director generally did not advance funds for the payment of taxes on property that was security for a loan being charged less than seven percent interest unless an escrow account had been established on the loan for the payment of taxes. The interest rate charged was the "loan rate" or "composite rate" where more than one loan (with different interest rates) is secured by the property;¶

(f) Effective with taxes (including delinquent taxes) to be paid in November of 2004 (2004-2005 taxes), the ¶Director may approve a borrower's request to advance funds for the payment of taxes on property that is security for a loan unless an escrow account had 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;¶

(g) Notwithstanding the provisions of subsection (1)(e) and (1)(f) of this rule, the ¶Director may advance funds for the payment of taxes on property that is security for a loan under the provisions of the Servicemembers 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 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 80 percent of the "real market 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 mortgage insurance that the lender pay taxes and insurance.¶

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

(4) The ~~d~~Director may revoke any permission granted concerning the payment of taxes and hazard insurance on the security by giving the owner of the security 30 days written notice of the revocation, except as otherwise provided herein. If the ~~d~~Director advances funds to pay unpaid taxes or hazard insurance, any advance by the ~~d~~ Director for such a shortage or deficiency also will constitute immediate revocation by the ~~d~~Director of permission for the owner to pay directly any taxes and hazard insurance due on the security, and the account will revert to the last signed agreement between the ~~d~~Director and borrower for the payment of taxes, hazard insurance and other obligations. Any advances by the ~~d~~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 ~~d~~ 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. ~~A~~ contract purchaser(s) may prepay the current year's property taxes in a lump sum and have the tax portion removed from the following year's payment(s).¶

~~(6) Monthly simple interest home improvement loans are handled as follows:¶~~

~~(a) If the borrower has an existing account with ODVA the taxes will continue to be paid per the terms of that account;¶~~

~~(b) When an existing account is paid in full and the loan-to-value ratio (LTV) is 80 percent or less of the net appraised value, the borrower may at the director's discretion pay their own taxes directly to the county and the borrower may at the director's discretion pay their own hazard insurance;¶~~

~~(c) If the borrower does not have an existing account and the LTV is greater than 80 percent, the borrower must pay their taxes and hazard into an escrow account as part of their standard payment.¶~~

~~(7)~~ 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 ~~d~~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 ~~d~~Director on a form prescribed by the ~~d~~ 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.¶

~~(87)~~ 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~~ hazard insurance premiums, other required insurance premiums, and condominium ~~or~~ homeowner's dues, ~~and~~ ~~banker~~ rofted amount association dues. In cases of un-assessed new construction, the estimate may be based, inter alia, on the assessment of comparable residential property in the market area.¶

~~(98)~~ The ~~d~~Director will pay interest on the escrow account as provided by ORS 86.245(1).¶

~~(109)~~ The definitions in section (10) of this rule apply to this section (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 ~~d~~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 loan is two months or more delinquent in payments an analyzes will not be done until the loan is brought current.¶

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

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

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

(140) The following definitions apply to section ~~10-100~~(9) of this rule:¶

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

(b) "Cushion" -means funds that the ~~d~~Director may require a borrower to pay into an escrow account to cover unanticipated disbursements or disbursements made before the borrower's payments are available in the account.¶

(c) "Deficiency" -means the amount of a negative balance in an escrow account.¶

(d) "Escrow account" -means any account that the ~~d~~Director establishes or controls on behalf of a borrower to pay taxes, insurance premium, or other charges, as applicable.¶

(e) "Escrow account computation year" -means a 12-month period that the ~~d~~Director establishes for the escrow account.¶

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

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

(h) "Target balance" -means the estimated month-end balance in an escrow account that is just sufficient to cover the remaining disbursements from the escrow account in the escrow account computation year, taking into account the remaining scheduled periodic payments, and a cushion.

Statutory/Other Authority: ORS ~~86.240, 86.245, 406.030, 407.115, 407.169, 407.274~~406.005 & 407.115

Statutes/Other Implemented: ORS ~~406.030, 407.275~~75 to 407.385; Oregon Constitution Article XI-A, Section 3

AMEND: 274-020-0440

NOTICE FILED DATE: 01/21/2020

RULE SUMMARY: Describes all home loan fees

CHANGES TO RULE:

274-020-0440

Fees ¶

(1) ~~The Director of Veterans' Affairs (director) imposes fees~~ Department charges fees as provided in section (3) of this rule for the following processes: ¶

- (a) New Loan; ¶
- (b) Assumption ~~by E of a loan by and eligible V~~ by an eligible veteran; ¶
- (c) Transfer of Ownership; ¶
- (d) Partial Release, Easement, and Modification of Mortgage; ¶
- (e) Timber Release; ¶
- (f) Firewood Release; ¶
- (g) Purchase of State-Owned Property; ¶
- (h) Dishonored Check; ¶
- (i) Reissue of Stale, Lost, Destroyed or Missing Document; ¶
- (j) Mineral Rights and Geothermal Resource Rights Release; ¶
- (k) ~~Veterans' Home Improvement Loan~~; ¶
- ~~(l) Borrower requests to cancel private mortgage insurance; and~~ ¶
- ~~(m)~~ Dishonored Electronic Funds Transfer. ¶

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

(3) Fee Schedule; ¶

(a) New Loan: ~~Fees~~. ¶

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

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

(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) A loan fee shall be charged on a conventional loan not to exceed ~~2~~ two percent (2%) of the loan amount; ¶

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

(F) A processing fee in the amount of ~~\$495~~ \$600 will be charged for processing, document preparation, or other services ~~permitted by the director that are usual and customary in the mortgage industry~~. ¶

~~(b)~~. ¶

(b) Assumption Fee. Assumption by an eligible veteran under ORS 407.305. Effective with applications received on or after July 1, 1985, the ~~d~~ 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~~ Fees. ¶

(A) Fees for transfer shall be of ownership: ¶

(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 of ownership 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 f 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 ~~d~~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 ~~d~~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~~ manufactured 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 ~~d~~Director is obligated to an appraiser for the cost of a property appraisal; ~~;~~ ~~¶~~
- (F) \$50 for processing request to relocate personal property ~~mobile~~ manufactured 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 ORS 407.275. This fee may be modified or waived at the discretion of the ~~d~~Director. ~~¶~~
- (e) Timber Release: ~~¶~~
- (A) ~~The director shall charge Fees. ¶~~
- (A) \$200 for a release of more than 7,500 and less than 30,000 board feet of timber. No refund will be made after application. ~~The director shall charge ¶~~
- (B) \$1,200 for a release of 30,000 board feet or more of timber. \$1,000 of the \$1,200 fee will be refunded to the applicant if the request is withdrawn before the ~~d~~Director is committed to an appraiser for the cost of a property appraisal. ~~¶~~
- (C) ~~No fee for one~~ release of up to and including 7,500 board feet of timber ~~will be allowed in~~ each calendar year ~~without a fee being charged; ~~;~~ ¶~~
- (B) ~~D~~ An increased fee may be charged in complex cases to cover extra costs. ~~¶~~
- (f) Firewood Release: ~~¶~~
- (A) ~~The director shall charge Fees. ¶~~
- (A) \$200 for a release of more than six and less than 20 cords of firewood. No refund will be made after application. ~~The director shall charge ¶~~
- (B) \$1,200 for a release of 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 ~~d~~Director is committed to an appraiser for the cost of a property appraisal. ~~¶~~
- (C) ~~No fee for one~~ release of up to and including six cords of firewood, ~~will be allowed in~~ each calendar year ~~without a fee being charged; ~~;~~ ¶~~
- (B) ~~D~~ An increased fee may be charged in complex cases to cover extra costs. ~~¶~~
- (g) Purchase of State-Owned Property: Fees. ¶
- (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 ~~d~~Director). If an application is canceled after approval, the full amount of the earnest money deposit shall be retained by the ~~d~~Director.

(D) Notwithstanding the provisions of paragraph (3)(g)(C) of this rule, the ~~d~~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.

(h) 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 ~~d~~Director may require this borrower to make all future payments by cash, money order, cashier's check or certified check.

(i) Reissue of Stale, Lost, Destroyed or Missing Document. Whenever a document issued by the ~~d~~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.

(j) Release of Mineral Rights and Geothermal Resource Rights Fees. The ~~d~~Director may charge a fee of \$150 for processing an application for release of mineral and geothermal resource rights. From this fee, ~~ODVA~~ the Department 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.

(k) 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 r~~ Borrower requests to cancel private mortgage insurance. The ~~Departing 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 bment will not charge a fee to cancel private mortgage insured by ODVA, may be charged in an amount not to exceed the amount charged by the provider of the service.~~

~~(l) Borrower requests to cancel private mortgage insurance. The director may charge a \$100 inspection fee. In the event a full appraisal is necessary to establish value, and it is requested by the borrower, the \$100 inspection fee will be credited toward the cost of the appraisal. However, the borrower must provide the Department with a full appraisal at the borrower's own cost.~~

~~(m)~~ Dishonored Electronic Funds Transfer Fees. Whenever an electronic funds transfer (also known as ACH) is authorized for payment of an obligation due to the Director of Veterans' Affairs ~~department~~ and is dishonored by the bank upon which the funds transfer is drawn, a fee in the amount of \$25 will be charged. If two dishonored electronic funds transfers are received from the same borrower within a 12-month period, the ~~d~~Director may require this borrower to make all future payments by cash, money order, cashier's check or certified check.

(4) Fees will be collected in advance (except for dishonored checks and electronic funds transfers). Where the ~~d~~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.

Statutory/Other Authority: ~~ORS 406.030, 407.115, 407.135, 407.145, 407.275, 742.282~~ORS 407.115

Statutes/Other Implemented: ~~407.135, 407.145, 407.275~~ORS 407.075 to 407.385; Oregon Constitution Article XI-A, Section 3