

Chapter 8 Borrower Fees and Charges and the VA Funding Fee

Overview

Introduction This chapter contains information about borrower fees and charges and the VA funding fee.

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8.01 VA Policy on Fees and Charges Paid by the Veteran-Borrower

Policy

The VA home loan program involves a veteran's benefit. VA policy has evolved around the objective of helping the veteran to use his or her home loan benefit. Therefore, VA regulations limit the fees that the veteran can pay to obtain a loan.

Lenders must **strictly** adhere to the limitations on borrower-paid fees and charges when making VA loans.

The VA Funding Fee

In order to defray the cost of administering the VA home loan program, each veteran must pay a funding fee to VA at loan closing.

Congress may periodically change the funding fee rates to reflect changes in the cost of administering the program, or to assist a certain class of veterans.

8.02 Fees and Charges the Veteran-Borrower Can Pay

VA Regulations VA regulations at [38 CFR 36.4312](#) provide the list of fees and charges that the veteran can pay.

[\[38 CFR 36.4312\]](#)

Overview The veteran can pay a maximum of

- reasonable and customary amounts for any or all of the “Itemized Fees and Charges” designated by VA, plus
- a 1% flat charge by the lender, plus
- reasonable discount points.

Note: Some special provisions apply to construction, alteration, improvement and repair loans

Reference: For more information, refer to the topic “Construction Loans” in this section.

Itemized Fees and Charges The veteran may pay any or all of the following itemized fees and charges, in amounts that are reasonable and customary.

Charge	Description
Appraisal and Compliance Inspections	<p>The veteran can pay the fee of a VA appraiser and VA compliance inspectors.</p> <ul style="list-style-type: none"> • The veteran can also pay for a second appraisal if he or she is requesting reconsideration of value. • The veteran cannot pay for an appraisal requested by the lender or seller for reconsideration of value. • The veteran cannot pay for appraisals requested by parties other than the veteran or lender.
Recording Fees	The veteran can pay for recording fees and recording taxes or other charges incident to recordation.

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8.02 Fees and Charges the Veteran-Borrower Can Pay,

Continued

Itemized Fees and Charges (continued)

Charge	Description
Credit Report	<p>The veteran can pay for the credit report obtained by the lender.</p> <p>On Loan Prospector cases, the veteran may pay the evaluation fee of \$50 in lieu of the charge for a credit report. For “Refer” cases, the veteran may also pay the charge for a merged credit report, if required.</p>
Prepaid Items	The veteran can pay that portion of taxes, assessments, and similar items for the current year chargeable to the borrower and the initial deposit for the tax and insurance account.
Hazard Insurance	The veteran can pay the required hazard insurance premium. This includes flood insurance, if required.
Flood Zone Determination	<p>The veteran can pay the actual amount charged for a determination of whether a property is in a special flood hazard area, if made by a third party who guarantees the accuracy of the determination.</p> <ul style="list-style-type: none"> • The veteran can pay a charge for a life-of-the-loan flood determination service purchased at the time of loan origination. • A fee may not be charged for a flood zone determination made by the lender or a VA appraiser.
Survey	<p>The veteran can pay a charge for a survey, if required by the lender or veteran.</p> <p>Any charge for a survey in connection with a condominium loan must have the prior approval of VA.</p>
Title Examination and Title Insurance	<p>The veteran may pay a fee for title examination and title insurance, if any.</p> <p>If the lender decides that an environmental protection lien endorsement to a title policy is needed, the cost of the endorsement may be charged to the veteran.</p>

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8.02 Fees and Charges the Veteran-Borrower Can Pay,

Continued

Itemized Fees and Charges (continued)

Charge	Description
Special Mailing Fees for Refinancing Loans	For refinancing loans only, the veteran can pay charges for Federal Express, Express Mail, or a similar service when the saved per diem interest cost to the veteran will exceed the cost of the special handling.
VA Funding Fee	Unless exempt from the fee, each veteran must pay a funding fee to VA.
Other Fees Authorized by VA	Additional fees attributable to local variances may be charged to the veteran only if specifically authorized by VA. The lender may request VA to approve such a fee if it is <ul style="list-style-type: none"> • normally paid by the borrower in a particular jurisdiction, and • considered reasonable and customary in the jurisdiction.

Whenever the charge relates to services performed by a third party, the amount paid by the borrower must be limited to the actual charge of that third party.

Example: If the lender obtains a credit report at a cost of \$30, the lender may only charge the borrower \$30 for the credit report. The lender may **not** charge \$35, even if it believes that a \$5 handling charge is fair.

In addition, the borrower may **not** pay a duplicate fee for services that have already been paid for by another party.

Examples:

- An appraisal is completed on a property and paid for by a prospective purchaser, but the sale is never completed. A second purchaser applies for a loan before the validity period of the Certificate of Reasonable Value (CRV) expires. The lender uses the same CRV. The lender may **not** charge the second purchaser an appraisal fee if no second appraisal is ordered.
- A survey or flood zone determination, if the lender elects to use an existing survey or flood determination.

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8.02 Fees and Charges the Veteran-Borrower Can Pay, Continued

Lender's 1% Flat Charge

In addition to the “itemized fees and charges,” the lender may charge the veteran a flat charge not to exceed 1% of the loan amount.

- Calculate the 1% on the principal amount after adding the funding fee to the loan, if the funding fee is paid from loan proceeds (except IRRRLs).

Note: For IRRRLs, use VA Form 26-8923, IRRRL Worksheet for the Calculation.

The lender's flat charge is intended to cover all of the lender's costs and services which are **not** reimbursable as “itemized fees and charges.”

The following list provides examples of items that cannot be charged to the veteran as “itemized fees and charges.” Instead, the lender must cover any cost of these items out of its flat fee.

- Lender's appraisals
- Lender's inspections, except in construction loan cases
- loan closing or settlement fees
- document preparation fees
- Preparing loan papers or conveyancing fees
- Attorney's services other than for title work
- photographs
- interest rate lock-in fees
- postage and other mailing charges, stationery, telephone calls, and other overhead
- amortization schedules, pass books, and membership or entrance fees
- escrow fees or charges

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8.02 Fees and Charges the Veteran-Borrower Can Pay,

Continued

Lender's 1% Flat Charge
(continued)

Examples of items that cannot be charged to the veteran:

- notary fees
- commitment fees or marketing fees of any secondary purchaser of the mortgage and preparation and recording of assignment of mortgage to such purchaser
- trustee's fees or charges
- loan application or processing fees
- fees for preparation of truth-in-lending disclosure statement
- fees charged by loan brokers, finders or other third parties whether affiliated with the lender or not, and
- tax service fees.

Construction Loans

The lender can charge an additional flat charge on construction, alteration, improvement, or repair loans.

- If the lender supervises the progress of construction and/or makes advances to a veteran in excess of 50% of the loan during construction, alteration, improvement, or repair
- then the lender may charge the veteran up to 2% of the loan amount in addition to the lender's 1% flat charge.
Example: Total charges to the veteran in these cases would be, at a maximum, itemized fees and charges plus a 3% flat charge plus discount points.
- If the lender does not supervise the progress of construction or make advances to a veteran in excess of 50% of the loan during construction, alteration, improvement, or repair
- then the lender may charge the veteran up to 1% of the loan amount in addition to the lender's 1% flat charge.
Example: Total charges to the veteran in these cases would be, at a maximum, itemized fees and charges plus a 2% flat charge plus discount points.

This provision also applies to supplemental loans.

8.03 Fees and Charges the Veteran-Borrower Cannot Pay

Lender's Use of 1% Flat Charge The lender's maximum allowable flat charge of 1% of the loan amount (or greater percentage in the case of construction loans) is intended to cover **all** of the lender's costs and services which are not reimbursable as "itemized fees and charges." The lender may pay third parties for services or do as it wishes with the funds from the flat charge, as long as the lender complies with the Real Estate Settlement Procedures Act (RESPA).

Section 8.02 provides some examples of items that **cannot** be charged to the veteran as "itemized fees and charges." This topic provides more examples of items that cannot be paid by the veteran, but can be paid out of the lender's flat charge or by some party other than the veteran.

Attorney's Fees The lender may **not** charge the borrower for attorney's fees. Reasonable fees for title examination work and title insurance can be paid, however, by the borrower. They are allowable itemized fees and charges.

VA does not intend to prevent the veteran from seeking independent legal representation. Therefore, the veteran can independently retain an attorney and pay a fee for legal services in connection with the purchase of a home. Closing documents should clearly indicate that the attorney's fee is **not** being charged by the lender, but is being paid by the veteran as part of an independent arrangement with an attorney.

Brokerage Fees Fees or commissions charged by a real estate agent or broker in connection with a VA loan may **not** be charged to or paid by the veteran-purchaser.

While use of "buyer" brokers is not precluded, veteran-purchasers may **not**, under any circumstances, be charged a brokerage fee or commission in connection with the services of such individuals. Since information on property available for purchase and financing options is widely available to the public from a variety of sources, VA does not believe that preventing the veteran from paying buyer-broker fees will harm the veteran.

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8.03 Fees and Charges the Veteran-Borrower Cannot Pay, Continued

**Prepayment
Penalties**

A veteran obtaining a VA refinancing loan cannot use loan proceeds to pay penalty costs for prepayment of an existing lien.

A veteran purchasing a property with a VA loan cannot pay penalty costs required to discharge any existing liens on the seller's property.

**HUD/FHA
Inspection Fees
for builders**

In proposed construction cases in which the dwelling was constructed under HUD supervision, the cost of any inspections or reinspections must be borne by the builder or sponsor and are **not** chargeable to the veteran-purchaser. This includes:

- reinspections by VA or HUD of onsite or offsite work for which an escrow agreement was established, and
 - any additional reinspections deemed necessary by VA to assure conformity with VA regulations.
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8.04 Other Parties Fees and Charges for the Veteran-Borrower

Policy The seller, lender, or any other party may pay fees and charges, including discount points, on behalf of the borrower.

VA regulations limit charges “made against or paid by” the borrower. They do not limit the payment of fees and charges by other parties.

Exception Excessive seller concessions are prohibited.

Reference: See Section 8.05.

8.05 Seller Concessions

Definition For purposes of this topic, a seller concession is anything of value added to the transaction by the builder or seller for which the buyer pays nothing additional and which the seller is **not** customarily expected or required to pay or provide.

Seller Concessions

Seller concessions include but are not limited to the following:

- payment of the buyer's VA funding fee
- prepayment of the buyer's property taxes and insurance
- gifts such as a television set or microwave oven
- payment of extra points to provide permanent interest rate buydowns
- provision of escrowed funds to provide temporary interest rate buydowns, and
- payoff of credit balances or judgments on behalf of the buyer.

Seller concessions do **not** include

- payment of the buyer's closing costs, or
 - payment of points as appropriate to the market.
Example: If the market dictates an interest rate of 7½% with 2 discount points, the seller's payment of the 2 points would **not** be a seller concession. If the seller paid 5 points, 3 of these points would be considered a seller concession.
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The Problem

In some localities, builders or sellers offer concessions as a competitive tool. In extreme cases, the concessions may entice unwary and unqualified veterans into home mortgages they cannot afford. The concessions may disguise the veteran's inability to qualify for the loan.

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8.05 Seller Concessions, Continued

The 4% Limit Any seller concession or combination of concessions which exceeds 4% of the established reasonable value of the property is considered excessive, and unacceptable for VA-guaranteed loans.

Do **not** include normal discount points and payment of the buyer's closing costs in total concessions for determining whether concessions exceed the 4% limit.

8.06 What Happens to Fees and Charges If the Loan Never Closes

Itemized Fees and Charges

The borrower's out-of-pocket expenses for itemized fees and charges already incurred, such as the appraisal and credit report, do **not** get refunded.

1% Flat Fee

If the lender has already collected the 1% flat fee from the borrower, the lender **must** refund the fee. This applies to a loan that does not close for any reason, including the borrower going to another lender.

8.07 Fees and Charges That Can be Included In the Loan Amount

All VA Loans For all types of VA loans, the loan amount may include the VA funding fee.

No other fees and charges or discount points may be included in the loan amount for regular purchase or construction loans.

Only refinancing loans may include other allowable fees and charges and discount points in the loan amount.

Note: Maximum loan amounts are discussed in Section 3.03.

**“Cash-out”
Refinancing
Loans**

For “cash-out” refinancing loans, allowable fees and charges and discount points (as discussed in Section 8.02) may be paid from cash proceeds of the loan, as long as total loan proceeds do **not** exceed 90% of the reasonable value of the property.

Only the VA funding fee (and the cost of any energy efficiency improvements) can be added to the 90% limit to increase the loan amount.

IRRRLs

The following fees and charges may be included in an Interest Rate Reduction Refinancing Loan (IRRRL):

- Any allowable fees and charges discussed in Section 8.02. This includes closing costs from the “Itemized Fees and Charges” list, the funding fee, and the lender’s flat charge.
 - However, there is **one** limitation unique to IRRRLs: While the borrower may pay any reasonable amount of discount points in cash, no more than two discount points can be included in the loan amount.
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8.07 Fees and Charges That Can be Included In the Loan Amount, Continued

Other Refinancing Loans

The following information applies to any loan to refinance:

- A construction loan
- an installment land sales contract, or
- a loan assumed by the veteran at an interest rate higher than that for the proposed refinancing loan.

The loan amount may include

- any allowable fees and charges discussed in Section 8.02, and
- reasonable discount points.

However, maximum loan limits may not allow inclusion of the full amount of these items.

The maximum loan amount will be the lesser of the

- sum of the outstanding balance of the loan being refinanced plus allowable fees and charges (other than the funding fee) plus discount points, or
 - VA reasonable value of the property, plus
 - VA funding fee, plus
 - cost of any energy efficiency improvements.
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8.08 The VA Funding Fee

The Lender's Role

The lender must

- verify the status of any veteran who may be exempt from paying the funding fee
- determine the amount of funding fee owed by any non-exempt borrower
- collect the appropriate fee from all non-exempt borrowers at loan closing

Note: The funding fee may be paid from loan proceeds or borrower cash.

- remit the funds to VA in a timely manner
- obtain proof of payment of the funding fee, and
- submit proof that the funding fee has been paid or that the veteran is exempt from paying the funding fee to VA with the closed loan package

Reference: For detailed instructions about how to remit the funding fee and provide proof of payment with the closed loan package, refer to Appendix C of this handbook

Who is Exempt from Paying the Funding Fee?

The following persons are exempt from paying the funding fee:

- Veterans receiving VA compensation for service-connected disabilities.
 - Veterans who would be entitled to receive compensation for service-connected disabilities if they did not receive retirement pay.
 - Surviving spouses of veterans who died in service or from service-connected disabilities (whether or not such surviving spouses are veterans with their own entitlement and whether or not they are using their own entitlement on the loan).
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8.08 The VA Funding Fee, Continued

How to Verify Exempt Status

The lender must verify exempt status by obtaining one of the following:

- A properly completed and signed [VA Form 26-8937, Verification of VA Benefit-Related Indebtedness](#), indicating the borrower's exempt status
- an award letter issued within 1 year of the date of the loan application indicating the veteran is entitled to receipt of VA disability compensation
- for a veteran who elected service retirement pay instead of VA compensation, a copy of the original VA notification of disability rating and documentation of the veteran's service retirement income, or
- indications on the Certificate of Eligibility that the borrower is entitled as an unremarried surviving spouse.

Consult VA if the borrower's status is unclear after reviewing the appropriate documents, or if conflicting information is found.

Loan Submissions Involving Exempt Borrowers

Submit a copy of the documentation used to verify exempt status with the closing package whenever no funding fee is remitted.

Exception: The lender does **not** have to submit the documentation if

- the borrower is an eligible surviving spouse, or
 - the documentation had been previously provided to VA with the loan application as verification of the veteran's income.
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8.08 The VA Funding Fee, Continued

If Exempt Status Cannot be Determined

If the veteran's exempt status cannot be verified prior to loan closing, the funding fee **must** be remitted as if the borrower was **not** exempt.

Indicate in the closing package that the veteran claims exempt status. VA will determine the borrower's status and refund the funding fee if appropriate.

Reference: Refer to the heading "Refunding Overpayments to the Veteran" in this section.

If the veteran has a pending disability compensation claim at the time of loan closing, the funding fee must be remitted as if the borrower was **not** exempt.

Advise the veteran to contact the VA regional office to request a refund if it is later determined that the veteran is entitled to compensation retroactively to a date prior to loan closing.

Reference: Refer to the heading "Refunding Overpayments to the Veteran" in this section.

How to Use the Funding Fee Tables

The lender must find the appropriate percentage in the tables using the following parameters:

- Is the veteran eligible for VA loan benefits through service in the regular military or the Reserves/National Guard? Examine the Certificate of Eligibility (COE). For Reserves/National Guard, the COE bears the notation, "RESERVES/NATIONAL GUARD - INCREASED FUNDING FEE," and is buff-colored rather than green.
 - Is the veteran a subsequent user of VA home loan benefits or obtaining his or her first VA loan? Examine the COE. An entitlement code of "5" indicates subsequent use, as does a loan number entered in the "Loan Number" column.
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8.08 The VA Funding Fee, Continued

How to Use the Funding Fee Tables
(continued)

- What type of loan is the veteran obtaining? The funding fee varies depending upon whether the loan is a purchase or construction loan, an IRRRL, or a cash-out refinancing loan.
- Is the veteran making a downpayment of at least 5 or 10%?
 - Calculate what percentage of the sales price of the property the veteran is remitting as a downpayment.
 - The down payment may come from the veteran’s own resources or borrowed funds. **Except**, if the purchase price exceeds the reasonable value of the property, the difference between the purchase price and the reasonable value must be paid by the veteran in cash without borrowing.
 - For construction loans only, equity in the secured property counts as a downpayment for calculating the funding fee.

Funding Fee Tables

Purchase And Construction Loans

Type of Veteran	Down Payment	Percentage for First Time Use	Percentage for Subsequent Use
Regular Military	None	2.00%	3.00% *
	5% or more (up to 10%)	1.50%	1.50%
	10% or more	1.25%	1.25%
Reserves/ National Guard	None	2.75%	3.00% *
	5% or more (up to 10%)	2.25%	2.25%
	10% or more	2.00%	2.00%

Cash-Out Refinancing Loans

Type of Veteran	Percentage for First Time Use	Percentage for Subsequent Use
Regular Military	2.00%	3.00% *
Reserves/National Guard	2.75%	3.00% *

*The higher subsequent use fee does not apply to these types of loans if the veteran’s only prior use of entitlement was for a manufactured home loan.

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8.08 The VA Funding Fee, Continued

Funding Fee Tables
(continued)

Other Types Of Loans

Type of Loan	Percentage for Either Type of Veteran Whether First Time or Subsequent Use
Interest Rate Reduction Refinancing Loans	.50%
Manufactured Home Loans	1.00%
Loan Assumptions	.50%

How to Calculate the Funding Fee

For all loans except IRRRLs, apply the appropriate percentage (from the funding fee tables) to the loan amount.

If the funding fee is to be paid from loan proceeds, apply the percentage to the loan amount without the funding fee amount added to it.

For IRRRLs, calculate the funding fee by completing VA Form 26-8923, Interest Rate Reduction Refinancing Loan Worksheet.

Reference: For joint loans, see “Calculation of the Funding Fee” in Section 7.01.

How and When to Remit the Funding Fee to VA

Lenders must remit the VA funding fee electronically within 15 calendar days of loan closing. Appendix C explains the equipment needed and procedures used to transmit the funding fee.

Appendix C also explains

- funding fee receipts
- late fees and interest, and
- how to obtain refunds.

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8.08 The VA Funding Fee, Continued

**Refunding
Overpayments
to the Veteran**

A refund is appropriate if

- an exempt veteran paid a funding fee, or
- a miscalculation of the fee caused an overpayment.

All requests for refunds must be submitted to the VA office where the loan was or will be submitted. Provide all pertinent facts, including the reason for the request and how the lender calculated the amount to be refunded.

If the veteran was overcharged, the following applies:

- A veteran who paid cash for the funding fee receives a cash refund for the amount of the overpayment.
 - In the case of a veteran who paid the funding fee out of loan proceeds, the lender must apply the overpayment against the loan balance.
 - Submit evidence to VA that the refund was applied against the principal balance of the loan.
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