

statement that such loans are not assumable without prior VA approval. Prior to enactment of Pub. L. 107–103, 38 U.S.C. 3714(d) required that the following notice, in all capital letters, using a font at least 2½ times larger than the regular type, be placed on the first page of the mortgage or deed of trust as well as any other instrument evidencing the loan, “This Loan is not Assumable Without the Approval of the Department of Veterans Affairs or its Authorized Agent.” As modified by section 403 of Pub. L. 107–103, section 3714(d) requires that such notice appear conspicuously on at least one of the instruments evidencing the loan or the security therefor.

VA is therefore amending § 36.4308 to reflect this change. Under the new rule, the required language must appear on one of the following instruments: The note, the mortgage, the deed of trust, or a VA-specific rider to any of those documents. This language must appear in a typeface which is the larger of either twice the largest font size contained elsewhere in the body of the instrument or 18 points. VA is eliminating the current requirements that this notice be on the first page of the document and that it be in all capital letters.

The former statute imposed a significant paperwork burden on lenders, and made it virtually impossible for lenders to use uniform loan instruments available for FHA and conventional loans for VA guaranteed loans. VA believes the requirements in the new rule will provide adequate notice to borrowers regarding the restrictions on assumption of VA guaranteed loans while significantly reducing the administrative burden the former statute placed on lenders. Because VA believes lenders should be able to take immediate advantage of the new liberalization, VA is issuing this amendment as an interim-final rule. VA is soliciting comments from the public regarding whether the standards for such notice are adequate to provide reasonable notice to veteran borrowers without imposing an undue burden on our industry partners. VA will carefully consider comments received and, if warranted, further amend the standards for the required notice.

Section 404 of Pub. L. 107–103 increased the maximum grants VA may make under 38 U.S.C. chapter 21, to certain veterans with total and permanent service-connected disabilities to assist those veterans in adapting housing to their special needs. The maximum Specially Adapted Housing grant authorized by 38 U.S.C. 2101(a) for veterans who have lost or

lost the use of both lower extremities or have lost or lost the use of one lower extremity and also are blind in both eyes or have residuals of organic disease or injury so as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair was increased from \$43,000 to \$48,000. The maximum Special Housing Adaptations grant authorized by 38 U.S.C. 2101(b) to veterans with blindness in both eyes or whose disability includes the anatomical loss or loss of use of both hands was increased from \$8,250 to \$9,250. VA is making conforming changes to § 36.4404 to reflect these statutory increases.

Administrative Procedure Act

These amendments are published without regard to the notice and comment and delayed effective date provisions of 5 U.S.C. 533 since amendments to §§ 36.4302, 36.4527, and 36.4404 merely conform existing rules to statutory amendments or, in the case of the amendment to § 36.4308, liberalize existing requirements pursuant to new statutory authority. We find that compliance with those provisions of 5 U.S.C. 533 would be impracticable, unnecessary, and contrary to the public interest.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State or local governments. With regard to the impact of this rule, on tribal governments, the amendments regarding MOUs with tribal governments are, as explained above, a liberalization of existing requirements. This rule may eliminate the necessity of some tribes having to negotiate a separate MOU with the Secretary. Accordingly, this rule may result in some cost saving to tribal government. Once VA approves making loans to members of a particular tribe, the loans would be funded by VA. Although the Indian housing authority may have some involvement in the servicing of some of these loans, any costs should be insignificant. Based on the current low loan volume in the Native American Veteran Direct Loan Program, VA anticipates making fewer than a dozen loans a year to American Indian tribal members.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The amendments regarding increases in the guaranty amount and specially adapted housing grant merely conform the regulations to statutory increases. The amendments regarding MOUs with tribal governments will not impact private entities. The liberalization of the notice requirements regarding loan assumptions should enable lenders to use standard loan instruments (such as note, mortgage, or deed of trust) they now use with regard to FHA, FNMA and FHLMC loans on VA loan transactions. Any costs to small entities originating VA loans with respect to these new requirements for loan instruments should be minimal. Therefore, pursuant to 5 U.S.C. 605(b), this interim rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

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

Approved: December 4, 2002.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

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

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.