

Temporary Local Variance for Certain Buyer-Broker Charges

1. Purpose. The Department of Veterans Affairs (VA) is publishing this Circular to announce a temporary local variance for charges related to real estate broker or agent (buyer-broker) compensation.

2. Background. VA regulates fees and charges that may be made against or paid by a Veteran who is using the VA-guaranteed home loan benefit.¹ While VA's regulation specifies that, generally, a Veteran cannot pay for real estate brokerage charges, the Under Secretary for Benefits (USB) may authorize, in advance, charges that are appropriate for Veterans to pay as proper local variances.² Through this Circular, VA is announcing a temporary local variance that will allow Veterans to pay for certain buyer-broker charges. The USB has determined this temporary variance is appropriate to ensure Veterans remain competitive buyers in the rapidly shifting real estate brokerage market. VA will develop a more permanent policy, through a new notice-and-comment rulemaking, as the real estate brokerage market restabilizes and new practices take hold.

3. Temporary Local Variance for Buyer-Broker Charges. VA is authorizing a temporary local variance that allows Veterans to pay reasonable and customary amounts for any buyer-broker charges (including commissions and any other broker-related fees), subject to the following:

a. The home the Veteran is purchasing is an area where—

- (1) listing brokers are prohibited from setting buyer-broker compensation through multiple listing postings; or
- (2) buyer-broker compensation cannot be established by or flow through the listing broker.

b. Buyer-broker charges are not included in the loan amount.

c. Buyer-broker charges paid or to be paid by the Veteran are to be considered in determining whether the Veteran has sufficient liquid assets to close the loan.³

d. An invoice is not necessary to support the buyer-broker charge; however—

(1) The total amount paid, if any, by the Veteran is to be recorded in lines 1 through 3 of section H ("Other") on the Closing Disclosure, and

(2) VA considers the buyer-broker representation agreement to be part of the sales contract package. As such, VA expects lenders to upload the agreement as part of the package lenders use when requesting an appraisal. VA also expects lenders to retain the agreement in the loan

¹ 38 C.F.R. § 36.4313.

² 38 C.F.R. § 36.4313(d)(1)(ix).

³ 38 C.F.R. § 36.4340(h).

file.⁴

4. Important Information Related to Brokerage Charges.

a. VA encourages Veterans to negotiate the amount to be paid to their buyer-broker, whether the Veteran or seller pays the amount.

b. The temporary variance announced by this Circular does not prevent the seller of the home from paying for the Veteran's buyer-broker charges.

c. As a reminder, VA does not treat the seller's payment of buyer-broker charges as a seller concession.⁵

5. Questions. For questions or comments please submit a request through VA's ServiceNow customer portal at https://yourit.va.gov/csm?id=rlc_pathfinder, or contact VA by phone at 1-877-827-3702, between the hours of 8:00 AM and 6:00 PM Eastern time.

6. Effective Date. This Circular is effective August 10, 2024.

7. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501-3520) and assigned OMB control numbers 2900-0515 and 2900-0045. In accordance with the Paperwork Reduction Act, VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

8. Rescission: This Circular is valid until rescinded.

By Direction of the Under Secretary for Benefits

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⁴ 38 C.F.R. § 36.4333.

⁵ VA Lenders Handbook M26-7, Chapter 8, Topic 5.