

**Chapter VA 4**

**HOUSING LOANS**

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**History:** Chapter VA 4 as it existed on October 31, 1974 was repealed and a new chapter VA 4 was created, Register, October, 1974, No. 226, effective November 1, 1974.

**VA 4.01 Definitions** (Subch. II of ch. 45, Stats.) In this chapter the terms defined in s. 45.71, Stats., shall have the meanings designated therein and such statutory definitions are incorporated herein by reference and the following terms shall have the designated meanings:

(1) "Adequate housing" means a structurally sound dwelling ready for immediate occupancy and sufficient in size to accommodate the applicant and the applicant's dependents, with necessary electrical (above 30 amperes), heating and sanitary facilities in good condition of repair. In order to be considered adequate housing, the dwelling must have sufficient bedrooms to provide sleeping accommodations segregated by sex for the applicant's unmarried dependents, except that dependents less than 6 years old need not have segregated sleeping accommodations if the dwelling provides space for necessary expansion or if older dependents will be leaving the dwelling permanently in the near future in order for the dwelling to be considered adequate housing.

(2) "Annual income" means "current monthly income" multiplied by 12.

(3) "Anticipated annual shelter payment" means the total annual payments anticipated for the following, as determined by the authorized lender or department on the basis of the loan applied for:

(a) Real estate taxes on the housing accommodation to be mortgaged. On previously untaxed properties, estimated real estate taxes shall be based upon the current assessed value times the prior year's mill rate for state, county, municipal and school taxes;

(b) Hazard insurance premium (including flood insurance, if required) for coverage required;

(c) Required payment on principal and interest on all loans which will be secured by encumbrances against the housing accommodation after the closing of the housing loan;

(d) Unit owner's share of common expenses (applies only to condominiums and planned unit developments);

(e) Holding tank monthly pumping fees annualized when such systems are permissible under s. VA 4.03 Wis. Adm. Code; and

(f) Monthly parking fees (applies only to mobile homes not located on land owned by the applicant).

(4) "Applicant" means a person who applies for a direct loan certificate of eligibility or a veteran who applies for a housing loan under subch. II of ch. 45, Stats. The term "applicant" also means the applicant and co-applicant, if there is a co-applicant, unless the context clearly limits the meaning to only the applicant.

(5) "Basement survey" means the placement of stakes delineating the perimeter by survey of the proposed basement within the lot upon which an applicant's home will be constructed. A basement constructed pursuant to such a survey must be in compliance with sideyard, setback and other applicable requirements.

(6) "Co-applicant" means any person who is eligible to apply and does apply with an applicant for a housing loan.

(7) "Current monthly income" means an applicant's current monthly adjusted gross income at the time of application, or in appropriate cases 1/12 of an applicant's annual income computed on the basis of the applicant's current adjusted gross income at the time of application, except in the case of a self-employed applicant, an applicant who is a seasonal employee, or an applicant who must pay substantial job connected expenses where current monthly income shall be computed on the basis provided in s. VA 4.05 (5) (a), Wis. Adm. Code, together with such other income as the department determines to be regular and dependable or includable as income.

(8) "Debt servicing payments" means 1/12 of an applicant's "anticipated annual shelter payment" and monthly repayments required on installment debts with thirteen or more remaining monthly payments due at the time of application for a housing loan. Debt servicing payments shall include 10% of the applicant's total indebtedness on which regular monthly payments are not required except when the applicant has sufficient assets to repay the indebtedness in full and agrees to submit evidence of full payment of the indebtedness prior to the closing of the transaction involving the housing loan.

(9) "Direct loan" means a housing loan under s. 45.79, Stats.

(10) "Dwelling" means the portion of a building used or to be used by an applicant and co-applicant as their principal place of residence, but not the land appertaining to such a building.

(11) "Farm" means an operating entity to include the applicant's home and such other improvements to the land, and land itself necessary to produce the applicant's primary source of income or when the applicant is otherwise gainfully employed, such supplemental income as may be necessary for the applicant's family needs.

(12) "Housing accomodation" means the building in which the applicant's home is located or to be located or, in the case of condominiums, the applicant's dwelling unit therein, but not the land appertaining thereto.

(13) "Housing loan" or "loan" means either a "direct loan" or a "secondary loan" or both.

(14) "Lender" means either an authorized lender or "primary lender" or both.

(3) **CONDUCT OF HEARING.** The hearing shall be held before a hearing examiner who shall be designated by the secretary. The hearing examiner will have the powers enumerated under s. 227.09, Stats. Every party to the hearing shall be afforded adequate opportunity to present evidence and to rebut evidence presented or offer countervailing evidence. A stenographic, electronic or other record shall be made of the hearing. The record shall be transcribed by the department, and free copies of the written transcript may be provided to any party in interest upon request.

(4) **FINAL DECISIONS.** Under s. 227.09 (3) Stats. the department may, by order, direct that the hearing examiner's decision be the final decision of the department. Alternatively, the decision of a majority of officials of the department appointed by the secretary shall be final. Whether the hearing examiner's decision, or the decision of the officials appointed by the secretary is final, such decision shall be based solely on the evidence presented at the hearing and on matters officially noticed. The decision will be based on the standard of substantial evidence. It shall be in writing and contain findings of fact and conclusions of law. The findings of fact shall treat each material issue of fact. The final decision shall be served by personal delivery or mailing to each party to the hearing or to the party's attorney of record.

(5) **PETITION FOR REHEARING.** Any party who deems itself aggrieved by a final decision may within 20 days after entry of the order set forth in such final decision, file with the department a written petition for rehearing specifying in detail the grounds for the relief sought and supporting authorities. The department may also order a rehearing on its own motion within 20 days after a final order. The filing of a petition for rehearing shall not delay or suspend the effective date of the final order. The final order shall continue in effect unless the petition for rehearing is granted or until the order is superceded, modified, or set aside as provided by law.

(6) **DISPOSITION OF PETITION.** A rehearing will be granted only on the basis of some material error of law, some material error of fact or discovery of new evidence sufficient to reverse or modify the final order which could not have been previously discovered by due diligence. The department may enter an order with reference to the petition for rehearing without a hearing, and shall take final action on the petition within 20 days after it is filed.

(7) **APPEAL TO BOARD OF VETERANS AFFAIRS.** (a) Upon the denial of a petition for rehearing by the department, an affected party may appeal to the board of veterans affairs (hereinafter referred to as the "board") within 20 days thereafter. The board shall hear and act upon the appeal within 30 days after submission. If the affected party which is aggrieved by the final decision of the department exercises the option not to appeal to the board, such party shall be deemed to have exhausted all administrative remedies.

(b) If the affected party which is aggrieved by the final decision in the department exercises the option to appeal to the board and such appeal is denied by the board, the affected party shall be deemed to have exhausted all administrative remedies.

(c) In all cases in which the affected party which is aggrieved by the final decision of the department exercises the option to appeal to the

board and such appeal is granted by the board, the board shall make the final decision. This decision may affirm, reverse, change, modify or suspend the proposed final decision of the department.

**History:** Cr. Register, September, 1978, No. 273, eff. 10-1-78; am. (3), Register, December, 1979, No. 288, eff. 1-1-80.