

## Chapter VA 12

### PERSONAL LOAN PROGRAM

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**Note:** Chapter VA 12 was created as an emergency rule effective August 24, 1993. Chapter VA 12 was repealed and recreated by emergency rule effective October 17, 1997. Chapter VA 12 as it existed on April 30, 1998, was repealed and a new chapter VA 12 was created effective May 1, 1998.

**Note:** 2005 Wis. Act 22 repealed and recreated Ch. 45, Stats. Cross-references to Ch. 45, Stats., were corrected by the revisor under s. 13.93 (2m) (b) 7., Stats.

#### VA 12.01 Definitions. In this chapter:

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

(2) "Annual shelter payment" means the total annual payments anticipated for rental of living quarters, or if the applicant is the owner of a homestead, principal and interest payments on all loans against the homestead and real estate taxes and hazard insurance payments on the homestead, and the owner's share of expenses for the common elements. "Annual shelter payment" includes monthly mobile home parking fees if the homestead is a mobile home located on land not owned by the applicant and includes holding tank pumping fees if the applicant's homestead has a septic disposal system which relies on a holding tank.

(3) "Applicant" means a person who is eligible and applies for a loan under s. 45.42, 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 the applicant only.

(4) "Co-applicant" means either the spouse of an applicant who applies with that applicant for a loan or a person, other than a spouse of the applicant, who is eligible for a loan under s. 45.42, Stats., and who chooses to apply with the applicant.

(5) "Current monthly income" means all of the applicant's regular and dependable adjusted gross income, converted to a monthly amount.

(6) "Date of application" means the date a loan application, as determined under s. VA 12.02 (2), is accepted by the department.

(7) "Department" means the department of veterans affairs.

(8) "Educational loan" means a personal loan program loan in which payments are deferred under the provisions of s. VA 12.06.

(9) "Personal loan program loan" or "loan" means a loan approved under s. 45.42, Stats. and this chapter.

(10) "Total debt payments" means 1/12 of an applicant's annual shelter payment and monthly repayments required on debts with 13 or more remaining monthly payments due at the time of application for a personal loan program loan. "Total debt payments" includes 5% of the applicant's total indebtedness on which regular monthly payments are not required except when the applicant has sufficient verified assets to repay the indebtedness.

(11) "Unremarried spouse" means an applicant whose basis of eligibility is marriage to a veteran at the time of the veteran's death.

**History:** Cr. Register, April, 1998, No. 508, eff. 5-1-98.

**VA 12.02 General loan policy.** (1) **ELIGIBILITY.** The applicant's eligibility to participate in the program shall be established prior to the approval of the loan by the department.

(2) **LOAN APPLICATION.** An application for a loan shall be on a form approved by the department and shall include documentation of income, verification of adequate security and other items as may be required by the department. An application shall be signed by the applicant or submitted electronically after obtaining

a valid log-on ID and password. Applications for loans by applicants who are married and not separated or in the process of obtaining a divorce shall be completed and signed by the applicant's spouse. If the application is submitted electronically, the spouse does not need to sign the application. Applications may be prepared with the assistance of and submitted through the office of a county veterans service officer or other representative as approved by the department or may be submitted directly to the department. Loan applications that are not complete will not be accepted by the department. A loan application which has been accepted by the department, but which is determined to lack the necessary information or documentation for the department to approve a loan, shall be denied, unless the applicant corrects the deficiency within 30 days' notice by the department to the county veterans service office or the applicant.

(3) **INCOME.** An applicant's current monthly income shall be verified. Acceptable verification of current monthly income may be:

(a) Copies of check stubs from the applicant's employment for a recent month within 3 months of the date of application.

(b) A copy of the prior year's income tax returns except if the applicant's employer, type of employment or method of compensation has changed. Applicants verifying their income by the prior year's income tax returns shall submit a complete copy of the state and federal tax return including all schedules.

(c) An award letter or copy of a check of unemployment compensation. Unemployment compensation may be considered income when it is received for regular or seasonal layoffs from the applicant's current employment.

(d) A business plan and professionally prepared profit and loss statement of income to be derived by an applicant from a new business which the applicant is establishing or an existing business the applicant is purchasing.

(e) A profit and loss statement for at least 6 of the 12 months immediately preceding the loan application date of the income of a self employed applicant.

(f) Depreciation as listed on an applicant's federal tax return may be used as income at the request of the applicant.

(g) An award letter or recent copy of a check from the United States department of veterans affairs for compensation or pension benefits.

(4) **TERM OF LOAN.** All loans, except loans for which an educational deferment is authorized under s. VA 12.06 (1), shall be amortized on a monthly basis and the term of the loan shall be at least 1 year and may not exceed 10 years. The department may set amortization terms based upon the loan amount. Loans for which an educational deferment has been authorized shall have a maximum amortization term of 5 years.

(5) **LOAN CHECKS.** Loan checks shall be made payable to the applicant except where the department determines payment to a specific party is required to ensure compliance with s. 45.42, Stats., and this chapter. Checks shall not be released until the department has received all necessary documentation and all requirements set forth in the department's commitment letter have been complied with to the satisfaction of the department. The department shall issue checks in whole number amounts and may

adjust the loan amount requested by the applicant to a whole number.

**(6) DELINQUENCY IN DEPARTMENT LOANS.** The department shall not approve a loan to an applicant who is delinquent on another loan from the department. The department may authorize a loan to an applicant who has failed to pay a prior loan from the department in compliance with a repayment agreement if the applicant establishes that a loss of employment due to no fault of the applicant or other unavoidable circumstances caused the underlying repayment problem.

**(8) BAD CREDIT PRACTICES.** Applications from applicants who have failed to pay their obligations in compliance with a repayment agreement or have quitclaimed real estate to a lender in lieu of foreclosure within the last 5 years shall be denied unless such applications show strong off-setting characteristics. The department may consider whether the lender did not incur a loss as a result of the quitclaim and whether a loss of employment due to no fault of the applicant or other unavoidable circumstances caused the underlying repayment problem.

**(9) DELINQUENT SUPPORT, SEPARATE MAINTENANCE PAYMENTS, MEDICAL AND BIRTH EXPENSES.** If the department has not received a certification under s. 49.854 (2) (b), Stats., that the applicant is delinquent in child support or maintenance payments or owes past support, medical expenses or birth expenses, the applicant's credit may be considered favorable if medical or birthing expenses do not exist or payments for such expenses are being made in accordance with a court order and child support and maintenance payments are current as of the date of approval of the personal loan program loan by the department. Evidence that the applicant is current shall be required if the child support or maintenance is not paid in the state of Wisconsin. If the applicant is in arrears or expenses exist, then a personal loan program loan may only be made to that applicant, if the amount necessary for the arrearage or expense is to be paid from proceeds of the department's loan.

**(10) TOTAL DEBT PAYMENTS.** Where an applicant's total debt payments exceed 35% of the applicant's current monthly income the application shall be denied unless the applicant has a history of excellent debt service combined with either a demonstrated ability to accumulate savings, at least 15% equity in real estate or such other factors as the department finds to be relevant to the applicant's ability and motivation to make higher debt service payments.

**(11) LIABILITIES.** To determine whether the level of indebtedness is excessive, the department may analyze the stated purposes for which an applicant's debts were incurred, the total amount of the indebtedness in relation to income, and the applicant's record of meeting past financial obligations. The purpose for which all debts were incurred shall be stated by the applicant. If the department determines the accumulated indebtedness indicates financial instability or the amount of monthly payments will impair the applicant's ability to make debt service payments and meet ordinary living expenses, the loan application shall be denied. Accumulation of net worth may be considered an indication of credit-worthiness.

**(12) BANKRUPTCY, COLLECTION ACCOUNTS, JUDGMENTS AND LIENS.** Applications from applicants currently under federal bankruptcy proceedings shall be denied. Any application from an applicant who has been subject to bankruptcy proceedings or to liens and judgments within the 5 years immediately preceding the application, shall be examined carefully and the circumstances fully analyzed to determine whether the applicant is creditworthy and has demonstrated financial recovery. A copy of the petition, schedules of debts and discharge in bankruptcy along with the applicant's signed statement of the reason for such bankruptcy shall be submitted with the loan application. Proceeds of the loan may be used to pay collection accounts, judgments, and liens when approved by the department. No loan shall be approved

where a collection account, judgment or lien would remain unsatisfied after distribution of the loan proceeds.

**(13) SUBORDINATION AGREEMENT AND PARTIAL RELEASE OF MORTGAGE.** The department may execute a subordination agreement or release a portion of the property providing security for its mortgage if the department verifies that the mortgagor's equity in the property secured by the mortgage is greater than 10% after the execution of the subordination agreement or partial release, the applicant is current on the loan, the applicant meets current underwriting criteria and the repayment history for the 6 months immediately preceding the request has been satisfactory.

**(14) CO-APPLICANTS.** The department shall consider the income, assets and debts of a co-applicant.

**(16) INDEBTEDNESS OF MARRIED VETERANS.** Eligible veterans who are married to each other may have indebtedness to the department in an amount up to \$50,000 under the personal loan program and total indebtedness to the department up to \$50,000 under the personal loan program, the economic assistance loan program under s. 45.351 (2), 1995 Stats., and the veterans trust fund stabilization loan program under s. 45.356, 1995 Stats., subject to the indebtedness limitations for an individual veteran delineated at s. 45.42 (2) and (7), Stats.

**Note:** The department will publish the current maximum loan amount on its web site.

**History:** Cr. Register, April, 1998, No. 508, eff. 5-1-98; am. (7), cr. (16), Register, July, 2000, No. 535, eff. 8-1-00; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 2000, No. 535; emerg. am (7) and (16), eff. 8-5-02; CR 02-130: am. (7) and (16), cr. (17) Register April 2003 No. 568, eff. 5-1-03; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register April 2003 No. 568; **CR 05-008: am. (2), (4), (6), (13), and (16), cr. (3) (g), r. (7), (15) and (17) Register May 2005 No. 593, eff. 6-1-05.**

**VA 12.03 Security required.** **(1) GUARANTORS.** The department may accept as adequate security the guarantee of personal loan program loan promissory notes by creditworthy and financially acceptable guarantors who are not the spouse of the applicant and who are Wisconsin residents. Guarantors are subject to the same underwriting criteria as the applicant and the department may request verification of information submitted. There must be at least 1 guarantor on guaranteed personal loan program loan promissory notes. No employee of the department, no county veterans service officer and no other person in any way connected with the administrative duties of the department or serving in an advisory capacity thereto may be accepted as guarantor on any loan unless the applicant is a member of the guarantor's immediate family. Any other Wisconsin resident who is determined by the department to be financially responsible and whose joining in the obligation provides adequate security may be accepted as a guarantor.

**(2) REAL ESTATE SECURITY.** The department may accept real estate as security if the real estate is located in Wisconsin and the applicant submits evidence of at least 10% equity therein after the personal loan program loan has been made. Possession of merchantable title to the real estate by the applicant prior to the closing is required. When the title to the property is held in more than one name all parties with an interest in the real estate shall sign the mortgage.

**(3) SECURITY ON TRIBAL OR BAND LAND OR WITH A TRIBAL OR BAND GUARANTEE.** In lieu of obtaining security for a personal loan program under sub. (1) or (2), the department may enter into a security agreement, enforceable and permissible under state and federal law, with an applicant and a federally recognized American Indian tribe or band in this state, whenever the applicant resides on any tribal or band land, and the security offered is the land or a guarantee by the tribe or band.

**History:** Cr. Register, April, 1998, No. 508, eff. 5-1-98; **CR 05-008: am. (1), cr. (3) Register May 2005 No. 593, eff. 6-1-05.**

**VA 12.04 Interest rates.** **History:** Cr. Register, April, 1998, No. 508, eff. 5-1-98; CR 02-130: am. (1) Register April 2003 No. 568, eff. 5-1-03; **CR 05-008: r. Register May 2005 No. 593, eff. 6-1-05.**

**VA 12.05 Real estate valuation. (1) GENERAL.** The department may accept the current equalized assessed full market value or fair market value as stated on the prior year's property tax statement as the value of the property for all purposes.

**(2) APPRAISALS.** If an appraisal is being used to determine the value an appraiser who is selected by the applicant and licensed by the Wisconsin department of regulation and licensing, shall perform the appraisal and complete the appraisal form prescribed by the department. The applicant is responsible for payment of the appraisal expenses.

**Note:** The form may be obtained from the Department at 30 W. Mifflin Street, Madison, Wisconsin 53707-7843.

**(3) USE OF APPRAISALS.** If the applicant submits an appraisal the appraisal is advisory only. The department may consider age of the appraisal, equity established by the appraisal, condition of the property or market value established by the appraisal in evaluating the appraisal submitted. The department may determine the value of properties for its purposes by means of property inspection by department representatives, by obtaining appraisal reports at its own expense, or by such other means as it may deem practical.

**History:** Cr. Register, April, 1998, No. 508, eff. 5-1-98; **CR 05-008: am. (2) Register May 2005 No. 593, eff. 6-1-05.**

**VA 12.06 Educational loans. (1) DEFERMENT OF PAYMENTS.** Subject to sub. (2), where an applicant who is enrolled in a full-time study course of instruction, as verified by the educational institution in which the applicant is enrolled, or in a part-time study course of instruction only in cases described in this subsection applies for deferment of the obligation to commence or

continue to make payments on a loan, the department may grant a deferment if the installments on such loan are less than 90 days delinquent at the time of approval of the deferment and, in the case of a guaranteed loan, if the guarantors consent in writing to the deferment. A deferment may not exceed 1 year and may not extend more than 3 months beyond the anticipated completion date of the applicant's educational objective but an applicant may qualify for additional deferments if eligible for such deferments under the provisions of this subsection at the time of application therefor. The department may grant deferments to an applicant enrolled in a part-time course of instruction because such applicant is disabled or unable due to physical or mental disability to enroll in a full-time course of instruction, is a graduate student who has completed the course of work required for a degree but must complete a thesis requirement, or is in the final semester or term of an educational program and needs less than full-time study to meet graduation requirements. Participation in a medical internship program is deemed to be enrollment in a full-time course of instruction for the purposes of this subsection.

**(2) LIMITATIONS ON DEFERMENT.** Payments may be deferred on only one department loan under s. 45.351 (2), 1995 Stats., and s. 45.42, Stats. at the same time. Indebtedness on a deferred loan may not exceed \$5,000. Additional deferments under sub. (1) may not exceed a total of 5 years.

**(3) UNDERWRITING CRITERIA.** The criteria contained in s. VA 12.02 (10) or (11) do not apply to the underwriting of an educational loan if the applicant is a full-time student and qualifies for a deferment under sub. (1).

**History:** Cr. Register, April, 1998, No. 508, eff. 5-1-98; **CR 05-008: am. (2) and (3) Register May 2005 No. 593, eff. 6-1-05.**