

**PROPOSED ORDER OF THE
DEPARTMENT OF VETERANS AFFAIRS
ADOPTING RULES**

The Wisconsin Department of Veterans Affairs hereby proposes an order to amend the rules relating to the home improvement loan program and personal loan program.

**ANALYSIS PREPARED BY THE
DEPARTMENT OF VETERANS AFFAIRS**

Statutory authority: ss. 45.35 (3), 45.356 (7), and 45.73, Stats.

Statute interpreted: ss. 45.356, 45.76, and 45.79, Stats.

The amended rule language accomplishes several purposes. The application procedures for home improvement and personal loans are updated to implement the additional flexibility authorized in 2003 Wis Act 83. Specifically, applicants would be authorized to file applications directly with the department, either manually or electronically. Current rule provisions addressing the adjustment of interest rates and loan amounts in the personal loan program will be repealed to reflect the new authority provided in 2003 Wis Act 83 for those purposes. Additionally, although not required by 2003 Wis Act 83, underwriting criteria for guarantors will be amended to assure more secure guarantor loans. Finally, a provision limiting loan proceed disbursements upon receipt of bills is repealed. It is unnecessary and unduly complicates the loan process.

There are no current or pending federal regulations that address this issue. There are no similar rules in adjacent states. This rule has no regulatory aspect to it, has no effect upon small businesses, nor any significant fiscal impact upon the private sector.

TEXT OF RULE

SECTION 1. VA 4.03 (2) is amended to read:

VA 4.03 (2) CONSTRUCTION TAKEOUT LOAN. (a) A primary loan may be made to replace a loan, the purpose of which was construction of a residence, including garage and acquisition of land, if the original term of the loan did not exceed 24 months, or if the renegotiated term of the loan does not exceed 24

months and terminates within 24 months of the closing date of the original loan.

SECTION 2. VA 4.09 (4) is amended to read:

VA 4.09 (4) 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 mortgagor's equity in the property secured by the mortgage is verified by the department to be 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 on the loan.

SECTION 3. VA 4.14 (1) is amended to read:

VA 4.14 (1) APPLICATION. This section applies only to the program under s. 45.76 (1) (c), Stats. This section applies in conjunction with other provisions of this chapter, except that the provisions of VA 4.03 (3) do not apply to this section. This section supercedes any inconsistent provision of this chapter with respect to the program under s. 45.76 (1) (c), Stats.

SECTION 4. VA 4.14 (2) (a) is amended to read:

VA 4.14 (2) (a) "Date of application" means the date a complete loan application with supporting documents is ~~accepted~~ received by the department.

SECTION 5. VA 4.14 (3) (b) is amended to read:

VA 4.14 (3) (b) 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 ~~shall~~ 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 may 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 of the deficiency by the department to the county veterans service office or to the applicant.

SECTION 6. VA 4.14 (3) (d) is amended to read:

VA 4.14 (3) (d) All loans shall be amortized on a monthly basis and the term of the loan shall be at least 1 year and may not exceed 15 years. The department may set loan amortization terms based upon the loan amount.

SECTION 7. VA 4.14 (3) (g) is repealed.

SECTION 8. VA 4.14 (4) (a) is amended to read:

VA 4.14 (4) (a) *Guarantors.* The department may accept as adequate security the guarantee of home improvement loan program 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 home improvement 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.

SECTION 9. VA 4.14 (4) (c) 1. is amended to read:

VA 4.14 (4) (c) 1. If an appraisal is being used to determine the value an appraiser, selected by the applicant and from the department's approved list ~~or~~ licensed by the Wisconsin department of regulation and licensing, shall perform an appraisal and complete the appraisal form prescribed by the department. The appraisal may include the value added by the improvements

or one-half of the cost of the proposed improvements may be added to an appraisal that does not include the value for improvements. The applicant is responsible for payment of the appraisal expenses.

SECTION 10. VA 4.14 (4) (d) is amended to read:

VA 4.14 (4) (d) *Alternate value establishment.* The department may accept the current equalized assessed value as stated on the last year's property tax statement plus one half of the cost of the proposed improvements as the cost and value of the residence for all purposes. In order to establish the value of the proposed improvement for the purpose of determining the increased equity value, the applicant shall submit a description of the project and estimates for the work or an appraisal that incorporates the proposed improvements.

SECTION 11. VA 4.14 (4) (e) is amended to read:

VA 4.14 (4) (e) *Letter title report.* A letter title report completed by a licensed title company ~~or~~, a licensed attorney, or an individual authorized by the department and subject to restrictions imposed by the department, verifying the nature and amount of all mortgages, liens, and other claims outstanding against the applicant's primary residence where the applicant offers a residence as security for a home improvement loan is required. ~~The date of the report can not be earlier than the date the mortgage for a home improvement loan is recorded at the appropriate register of deeds.~~

SECTION 12. VA 4.14 (4) (f) is amended to read:

VA 4.14 (4) (f) *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 on the loan.

SECTION 13. VA 12.02 (2) is amended to read:

VA 12.02 (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 submitted 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 ~~shall~~ 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.

SECTION 14. VA 12.02 (3) (g) is created to read:

VA 12.02 (3) (g) An award letter or recent copy of a check from the United States department of veterans affairs for compensation or pension benefits.

SECTION 15. VA 12.02 (4) is amended to read:

VA 12.02 (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.

SECTION 16. VA 12.02 (6) is amended to read:

VA 12.02 (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.

SECTION 17. VA 12.02 (7) is repealed.

SECTION 18. VA 12.02 (13) is amended to read:

VA 12.02 (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.

SECTION 19. VA 12.02 (15) is repealed.

SECTION 20. VA 12.02 (16) is amended to read:

VA 12.02 (16) INDEBTEDNESS OF MARRIED VETERANS.
~~Notwithstanding the limitations of sub. (7), eligible~~ Eligible veterans who are married to each other may have indebtedness to the department in an amount up to ~~\$30,000~~ \$50,000 under the personal loan program and total indebtedness to the department up to ~~\$30,000~~ \$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, Stats., subject to the indebtedness limitation for an individual veteran delineated at ~~ss. s.~~ s. 45.356 (2) and ~~45.356~~ (8), Stats.

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

SECTION 21. VA 12.02 (17) is repealed.

SECTION 22. VA 12.03 (1) is amended to read:

VA 12.03 (1) GUARANTORS. The department may accept as adequate security the guarantee of personal loan program 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 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.

SECTION 23. VA 12.03 (3) is created to read:

VA 12.03 (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.

SECTION 24. VA 12.04 is repealed.

SECTION 25. VA 12.05 (2) is amended to read:

VA 12.05 (2) APPRAISALS. If an appraisal is being used to determine value, an appraiser, who is selected by the applicant ~~from the department's approved list or~~ 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.

SECTION 26. VA 12.06 (2) is amended to read:

VA 12.06 (2) LIMITATIONS ON DEFERMENT. ~~The department may initially defer payments under the provisions of sub. (1) only for an applicant whose income falls within the lowest income bracket designated by the secretary of the department under s. VA 12.04 (1).~~ Payments may be deferred on only one department loan under s. 45.351 (2), 1995 Stats., and s. 45.356, 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.

SECTION 27. VA 12.06 (3) is amended to read:

VA 12.06 (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).

The amendment of the rule contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats., and shall apply to all courses or semesters started after that effective date.

Dated at Madison, Wisconsin, April 18, 2005.

STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS

JOHN A. SCOCOS, SECRETARY