

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History: Chapter VA 4 as it existed on October 31, 1974 was repealed and a new chapter VA 4 was created, Register, October, 1974, No. 226, effective November 1, 1974.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. In this chapter the terms defined in section 45.71, Wis. 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) "Debt servicing payments" means 1/12 of a veteran's "anticipated annual shelter payment" and monthly repayments required on installment debts with 13 or more remaining monthly payments due at the time of application for a housing loan.

(2) "Direct loan" means a housing loan under section 45.79, Wis. Stats.

(3) "Secondary loan" means a housing loan under section 45.352, 1971 Wis. Stats., or 45.80, Wis. Stats.

(4) "Shelter cost ratio" means a veteran's anticipated annual shelter payment divided by such veteran's annual income.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74.

VA 4.02 Mobile home loans. (1) **SECURITY.** Notwithstanding the provisions of section 45.80 (2) (c), Wis. Stats., no second chattel security agreements or second mortgages will be accepted as security for secondary loans on mobile homes.

(2) **REPAYMENT OF LOANS.** All loans on mobile homes will be amortized on a monthly payment basis. If such loans are not secured by real estate mortgages, their repayment term shall be a maximum of 8 years and if such loans are secured by real estate mortgages their repayment term shall be a maximum of 12 years, but the department or authorized lender may require shorter repayment periods.

(3) **ITEMS INCLUDED IN MOBILE HOME COST.** Furniture and appliances, moving and utility hookup expenses and taxes included as a part of the purchase price of the mobile home will be considered a part of the total cost of the mobile home for the purposes of sections 45.74 and 45.77, Wis. Stats. Such furniture and appliances shall be included in the chattel security agreement.

(4) **SALES PRICE AS VALUE.** Notwithstanding the provisions of Wis. Adm. Code section VA 4.07 (1), the usual selling price of a new mobile home may be deemed to be its value and the appraisal may be waived in any case involving an application for a secondary loan.

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(5) **REGISTRATION.** All mobile homes upon which either direct or secondary loans are made must be registered with the department of transportation.

(6) **CONSENT TO REMOVAL.** No mobile home upon which a direct loan has been made shall be moved from the site of original hookup without the consent of the authorized lender and the department and no mobile home upon which a secondary loan has been made shall be moved from the site of original hookup without the consent of the department.

(7) **SHELTER PAYMENT.** Where a mobile home is located or is to be located on land not owned by the veteran borrower, anticipated annual parking fees shall be considered a part of the veteran's anticipated annual shelter payment.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74.

VA 4.03 General loan policy both programs. (1) **SELECTION OF PROGRAMS.** No secondary loan will be made on a property on which a direct loan is outstanding.

(2) **LOAN REPAYMENT RECORD.** The department will not issue a certificate of eligibility to a veteran or approve a secondary loan to a veteran who is in default on an economic assistance loan. Unless approved by the secretary or approved pursuant to guidelines established by him, an application for an economic assistance loan, a secondary loan or for a certificate of eligibility from a person whose repayment record on a department loan has been unsatisfactory shall be summarily denied on the basis of such record.

(3) **REFINANCING.** A loan for refinancing of existing housing indebtedness may be made only in cases where the veteran's home is in danger of being lost by the veteran through legal action, where the department or authorized lender is satisfied that the property will provide adequate security for the mortgage loan and where such loan will permit the veteran's housing indebtedness to be placed on a sound financial basis.

(4) **COMPLETED CONSTRUCTION.** Back filling, rough grading, access walks and driveways are required to complete the construction of a home and must be included in the bids or estimates submitted.

(5) **BUILT-INS CONSIDERED REAL ESTATE.** Built-in appliances and carpeting will be considered a part of the real estate.

(6) **SECOND APPLICATIONS.** Favorable consideration will be given to a veteran's second application for a housing loan from the department or to a veteran's request for the issuance of a certificate of eligibility in cases where the veteran has previously had a housing loan from the department if the veteran's previous home was sold for reasons acceptable to the department and if the veteran invests sufficient net proceeds from the sale of such home in the new home which the veteran intends to acquire. The veteran must show that the net proceeds received from the sale of such home will be used to acquire the veteran's new home, except that the department may permit a veteran to retain funds in an amount not exceeding the asset maximum set forth in section 45.74 (4), Wis. Stats., from the net proceeds realized from such sale and may in addition to the retention of such funds approve a loan where a veteran has paid from such net proceeds

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obligations which were incurred for medical, hospital or funeral expenses, or for any other obligations for necessitous items which were incurred prior to the sale of the former home which would impair the veteran's ability to make future shelter cost payments. A sale of a home which occurred more than one year prior to the date of application will not be subject to the provisions of this subsection.

(7) **CONSTRUCTION LOANS.** Construction contracts must be written on a firm price basis and no cost adjustment clause will be permitted. Change orders in construction contracts will be permitted only upon the approval of the department or authorized lender and only if the cost of such change orders when added to previously determined total cost does not exceed the maximum allowable cost based upon the veteran's income and only where the veteran deposits the cost of the change order with the authorized lender in direct loan cases or the first mortgage in secondary loan cases.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (5), eff. 2-21-74; emerg. am. (3), eff. 5-1-75; emerg. am. (3), eff. 1-30-76; am. (2), Register, July, 1976, No. 247, eff. 8-1-76.

VA 4.04 Cost of housing accommodation and garage. The following bases will be used to determine the cost of housing accommodation and garage for the purposes of section 45.74 (5), Wis. Stats.

(1) **CURRENT APPRAISAL.** In construction loan applications where the cost of the land and improvements are integral parts of the total property cost and in purchase loan applications, the cost of the housing accommodation and garage shall be based upon a current appraisal thereof. If the appraised value of the entire property exceeds its cost, the percentage of the total appraised value attributable to the housing accommodation and garage multiplied by the total cost of the property will be the cost of the housing accommodation and garage.

(2) **COST OF CONSTRUCTION.** In construction loan applications where the lot is purchased separately, the cost of the housing accommodation and garage shall be the cost of construction thereof which shall not include the cost of laterals to the lot line, grading, backfilling, fill, landscaping, septic tank, dry well, well, driveway, street, sidewalk, curb and gutter, assessments for sewer and water mains or other ancillary improvements to the land.

(3) **ORIGINAL COST OR VALUE.** In improvement and refinance loan applications the original cost of the housing accommodation and garage shall be the cost of construction thereof if constructed by the veteran. If purchased by the veteran the original cost of the housing accommodation and garage shall be based upon either the assessed or appraised value thereof at the time of acquisition of the property by the veteran and shall be the product of the percentage of the total appraised or assessed value attributable to the housing accommodation and garage multiplied by the cost of the entire property.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74.

VA 4.05 Financial requirements. (1) **FUNDS.** Funds shall not include the cash surrender value of life insurance policies insuring the lives of the veteran or spouse, the assets of the veteran's or veteran's spouse's business, securities representing interests in the veteran's or veteran's spouse's employer's firm which are intended to provide retirement benefits, which cannot be cashed without loss of employer

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contributions toward future purchases of securities or which should be retained in order to insure continued employment at present job status levels.

(2) **VETERAN'S CONTRIBUTION.** If the veteran's contribution required under section 45.77, Wis. Stats., or such closing costs as the veteran may be required to pay have been or are to be acquired by borrowing, the veteran's application will not be approved. The veteran must be financially able with the aid of the housing loan applied for to complete the contemplated home purchase, construction, improvement or refinance and to pay all required closing and moving expenses. Work credits or other reductions of the price of the property being acquired by a veteran may be allowed but only after the veteran evidences that a 5% down payment has been made in such veteran's own funds.

(3) **ADDITIONAL SECURITY FOR A LOAN.** Unless retained under the provisions of section 45.74 (4), Wis. Stats., any real estate a veteran owns at the time of making application for either a direct or a secondary loan must either be sold or otherwise disposed of or included in the mortgage executed to the department or authorized lender. The value of real estate mortgaged to the department or authorized lender shall not be funds for the purpose of section 45.74 (4), Wis. Stats. Release of such real estate from a direct loan mortgage shall be governed by the provisions of Wis. Adm. Code section VA 4.08 (9) and release of such real estate from a secondary loan mortgage shall be governed by the provisions of Wis. Adm. Code section VA 4.09 (10).

(4) **GIFTS TO THE VETERAN.** A gift of money or the value of property received by a veteran or veteran's spouse as a gift may be considered the veteran's own funds. To be considered funds of the veteran the donor must certify that the gift is outright and irrevocable and that no repayment is required. In determining the value of real estate the assessed value as equalized for state tax purposes and the appraised value shall be considered and the higher value may be used in satisfying the statutory 5% requirement and in determining the total cost of the property. Where the donor has recently acquired the real or personal property, the actual cost to the donor may be used to determine the value of the gift.

(5) **"INCOME".** (a) The adjusted gross income shown on a veteran's income tax return for the prior year shall be the "income" of a self-employed veteran or of a veteran who must pay substantial job connected expenses; however, in proper cases involving self-employed veterans, the department or authorized lender may accept a recent profit and loss statement covering a period of not less than 6 months or a recent profit and loss statement covering a lesser period and a copy of the income tax return of the former owner of the veteran's business as evidence of the "income" of such veteran.

(b) One-half of gross rental income will be considered "income" if services must be furnished to tenants and, if no services must be furnished to tenants, 2/3 of gross rental income will be considered "income".

(c) Part-time or overtime pay, unemployment compensation, and the income of veteran or the veteran's spouse will be considered "income" only if acceptable, independent evidence is submitted to

substantiate the regular and dependable nature thereof. The adjusted gross income the veteran is receiving from his regular work must, in all cases, be verified by employer's verification or as provided in paragraph (a) and, if the income of the veteran's spouse, or part-time income is verified, such income shall be evaluated by the same standards as are used in the evaluation of the veteran's income. Except as provided in paragraph (b) the entire amount of adjusted gross income verified and found to be regular and dependable must be considered "income".

(d) Child support payments, separate maintenance payments, or alimony shall be considered as income to the extent that they are likely to be received consistently. Applicants must be advised that income from such sources need not be revealed if they do not desire to have such income considered in conjunction with their applications for department loans.

(e) The income of a veteran who is required by court order to make alimony or child support payments may, upon the veteran's request, be reduced by the amount of such required payments and only remaining income shall be considered "income" in such cases. If such request is not made, such payments shall be considered in computing the veteran's debt servicing payments.

(6) DEBT SERVICING PAYMENTS AND SHELTER COST RATIO. Where a veteran's debt servicing payments exceed 35% of monthly income or where a veteran's shelter cost ratio exceeds 25%, the veteran's application will be approved only if the veteran has a history of excellent debt service combined with either a demonstrated ability to accumulate savings as evidenced by a larger than normal down payment or such other factors as the department or authorized lenders find to be relevant to the veteran's ability to make higher than normal debt servicing or shelter cost payments.

(7) FINANCIAL STABILITY. (a) *Indebtedness.* The department and authorized lender will consider the purposes for which a veteran's debts were incurred, the total amount of the veteran's indebtedness, the veteran's total monthly payments on such indebtedness in relation to the veteran's income, and the veteran's record of meeting past financial obligations in determining whether the veteran's indebtedness is excessive. If the department or authorized lender determines that the veteran's accumulated indebtedness indicates financial instability or that the amount of the veteran's monthly payments will impair the veteran's ability to make shelter cost payments and meet ordinary living expenses, the veteran's loan application will not be approved.

(b) *Spouse's debts.* The independent debts of a veteran's spouse may be included in the veteran's total indebtedness only in cases where such inclusion is permitted under Equal Credit Opportunity Act regulations. Joint debts must be included in the veteran's total indebtedness.

(c) *Financial instability.* Where a veteran's record of meeting financial obligations indicates financial instability, such veteran's loan application may be approved, only if it is determined that such

veteran's financial difficulties could not have been avoided by prudent management.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (5) (d) and r. (5) (c), eff. 7-29-75; am. (5) (e) and (7) (b), r. and recr. (5) (c) and (d), Register, July, 1976, No. 247, eff. 8-1-76.

VA 4.06 Property qualifications. (1) **GENERAL.** A housing loan will be approved only on a home which is determined to be adequate for the veteran applicant and family, which is located or, in the case of a mobile home, which is to be located in Wisconsin within a reasonable distance of the veteran's place of employment, and the total cost of which does not exceed its market value.

(2) **EXCESSIVE LAND VALUE.** The appraised value of a housing accommodation and garage located on land in a residential area, on land with water frontage, on land in a commercial area or on rural non-farm property must equal or exceed 40% of the total cost of the land, housing accommodation and garage and other improvements. In the case of an application for a loan for the construction or improvement of a housing accommodation or for the construction of a garage on a farm with farm land and farm buildings, the department or authorized lender shall determine that the value of the land and non-housing improvements thereon is not disproportionate to the value of the dwelling before the application can be approved.

(3) **SUB-STANDARD HOMES.** Applications for loans to purchase sub-standard homes, temporary dwellings, or homes not meeting minimum requirements of health and sanitation, such as garages, basements, or cottages inadequately converted for permanent occupancy, will not be approved.

(4) **SPLIT LOTS.** An application to purchase 2 homes on one lot will be approved only if the veteran is able to establish that the home in which the veteran desires to reside cannot be purchased separately. An application to purchase a house situated on a lot deemed to be of inadequate size will not be approved.

(5) **PROPERTY ANALYSIS.** Federal home loan mortgage corporation (FHLMC) guidelines and standards shall be used for evaluating properties. Loans will not be approved on properties that fail to meet such standards and such standards and guidelines will be used for determining the maximum number of years for which loans will be made on properties offered as security therefor.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74.

VA 4.07 Appraisals. (1) **GENERAL.** Appraisals must be submitted with all housing loan applications and, in the case of applications for direct loans, must be completed on an appraisal form prescribed by the department by an appraiser selected by the authorized lender from appraisers approved by the department. Appraisals submitted with applications for secondary loans may be submitted on either the department's appraisal form or on appraisal forms prescribed by the department by a department approved appraiser.

(2) **USE OF APPRAISALS.** Appraisals will be used in determining whether the properties so appraised will adequately secure proposed loans, but such appraisals are advisory only and the department may determine the value of properties for its purposes by means of

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property inspection by department representatives, by obtaining appraisal reports at its own expense, or by such other means as it may deem practical. When the sales price or construction cost exceeds either the appraisal figure or the department's determination of value, the loan application will not be approved.

(3) **APPRAISERS.** The secretary may designate appraisers in any county for the protection of veterans, the department and the authority, and in counties where such appraisers have been designated only their appraisals will be accepted. The department shall maintain and publish from time to time a list of appraisers whose appraisals will be accepted by the department.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74.

VA 4.08 Direct loan program regulations. (1) **CERTIFICATE OF ELIGIBILITY.** (a) *Application.* An application for issuance of a certificate of eligibility for a direct loan shall be submitted to the department through the applicant's county veterans service officer and shall be in the same form as an application for the establishment of eligibility for general benefits from the department but shall contain a specific request for issuance of such certificate.

(b) *Issuance.* A certificate of eligibility shall be issued only to a veteran whose previous transactions with the department would in no way bar approval of a secondary loan by the department.

(c) *Expiration.* If the applicant is a veteran who was a resident of the state of Wisconsin at time of entry into military service, the certificate of eligibility shall be issued for an indefinite period. If the applicant qualifies as a veteran by virtue of being the unremarried spouse of a deceased veteran, the certificate shall become null and void upon the remarriage of the applicant and shall so state upon its face. If the applicant established eligibility for the certificate on the basis of 10 years continuous residence in the state of Wisconsin, it shall expire 6 months from date of issuance.

(d) *Reissue.* A certificate of eligibility may be reissued in cases where the original certificate has expired or has been lost if the applicant is still an eligible veteran at time of application for reissue.

(2) **CONTRACTS.** The department shall enter into contracts with authorized lenders willing to participate in the direct loan program before such lenders may process direct loan applications. Such contracts shall delineate or include reference to the responsibilities of the authorized lenders and other matters set forth in section 45.79 (5) (a) 1., Wis. Stats., shall vest authorized lenders with such powers as the department deems necessary to enable them to properly carry out their servicing responsibilities, shall specify the minimum number of days notice required by the department of anticipated closing or first disbursement dates, and shall specifically require such lenders to execute warranties and servicing agreements in connection with direct loans closed by them, the provision of which warranties and agreements shall be deemed to be incorporated in such contracts.

(3) **APPLICATION.** Application for a direct loan shall be made through the authorized lender of the veteran's choice. The application shall be completed on forms prescribed by the department, and shall include the applicant's certificate of eligibility, a fact-built credit report, appraisal report, employment and deposit verifications and, where

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appropriate, plans, specifications, a construction contract, a survey, water analysis report, purchase agreement, and such other instruments and exhibits as the authorized lender deems necessary to complete the application.

(4) **DENIAL BY AUTHORIZED LENDER.** If at any time during the course of the development or evaluation of an application for a loan, the authorized lender determines that the application does not meet the statutory requirements set forth in subchapter 2 of chapter 45, Wis. Stats., or that it would not approve a loan to the applicant under its normal underwriting standards because the property to be acquired or refinanced does not meet its minimum or FHLMC minimum property standards, because the applicant does not meet its credit standards, etc., the authorized lender shall inform the borrower that his application is denied and of the reasons for such denial. Applications denied by authorized lenders shall not be forwarded to the department but the department shall be notified promptly of such denials.

(5) **SUBMISSION TO THE DEPARTMENT.** All applications approved by authorized lenders shall be submitted to the department for review and approval or denial. Immediately upon approval of an application the department shall notify the authorized lender involved and, as soon as possible thereafter, shall send a commitment letter to the authorized lender, with which the department shall return the application committing the department to transfer funds as provided under section 45.79 (5) (a) 4, Wis. Stats., subject to such funds being made available to the department. Purchase or refinance loan commitments will expire 6 months from date of issuance and construction loan commitments will expire 12 months from date of issuance, but may be extended at the discretion of the department.

(6) **CONSTRUCTION LOANS.** Construction loan funds shall be disbursed on the basis of guidelines set forth in the department's lenders manual and in compliance with all conditions set forth therein, and the borrower's obligation to make principal repayments on such loans may be deferred for up to 8 months following first disbursement of loan funds or until after completion of construction and disbursement of all loan proceeds, whichever is sooner.

(7) **WARRANTY.** As soon as practicable after the closing of a purchase or refinance loan or after the first disbursement of funds in a construction loan the authorized lender will transmit the executed mortgage note, summary of closing worksheet and warranty to the department. The authorized lender will also transmit the executed mortgage and assignment of mortgage to the department for transmittal to the authority if the authority is providing the funds for the loan and so requires. The warranty shall be made on a form furnished by the department and shall contain information sufficient to enable the department to determine that a valid first lien which complies with the requirements of all federal and state laws exists in favor of the authority or of the department on the mortgaged premises and that the mortgagor has obtained, or in the case of construction loans will obtain, adequate fire and extended coverage insurance on the mortgaged premises and will contain such other information as the department requires.

(8) **SERVICING AGREEMENTS.** (a) *General.* Servicing agreements shall set forth in detail the servicing powers and responsibilities of authorized lenders, shall require such lenders to remit principal payments and interest payments, except for the portion thereof constituting the authorized lender's servicing fee, to the department or the authority at least twice monthly, as soon as possible following the 15th day after such lender's last business or computer day of the month or whenever payments received total \$5,000, whichever is sooner, and shall specify the manner in which the authorized lenders shall report on loan collections.

(b) *Fees and expenses.* Servicing agreements shall specifically empower authorized lenders to collect and retain late charges, NSF check charges, partial release fees, and amounts representing expenditures made by them with respect to mortgages executed or properties mortgaged to the department or to such lenders or to the authority for which they have not been reimbursed by the department. Late charges, NSF check charges and partial release fees not collected by such lenders from veteran borrowers, in addition to required principal, interest and escrow payments, may not be deducted from such payments, charged to the department or the authority or added to mortgage loan balances. Such agreements shall specify the items for which authorized lenders may incur reimbursable expenses and the terms and conditions under which the department will pay such expenses.

(9) **PARTIAL RELEASES.** An authorized lender may, with the consent of the department, release a portion of the property mortgaged to it or the department or the authority under a direct loan if the release of such property will not unduly diminish the value of the remainder of the property. The authorized lender will require that any funds received by a veteran from the sale of property released be applied to reduction of the mortgage loan balance unless it is proposed that a part of such funds will be used to improve the property, in which case the authorized lender may approve such use and supervise the disbursement of funds therefore.

(10) **CONSUMER LAWS.** Notwithstanding any contrary provisions of the Wisconsin Statutes, the Wisconsin Administrative Code, of contracts and servicing agreements entered into between the department and lenders or of the department's lenders manual, lenders shall take such actions as they deem necessary to comply with federal and state consumer laws and regulations and laws and regulations in the nature thereof including, but not limited to, Regulation B under the Equal Credit Opportunity Act, and shall be responsible for defending any suits brought for non-compliance therewith and liable for any damages awarded for such non-compliance.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (5), (7), (8) and (9), eff. 7-29-75; am. (5), (7), (8) and (9), cr. (10), Register, July, 1976, No. 247, eff. 8-1-76.

VA 4.09 Secondary loan program regulations. (1) **IMPROVEMENT LOANS.** A housing loan may be made for improvement to a veteran's present dwelling or for construction of a garage if the property will have sufficient value after completion of the garage or of the improvements to the dwelling to provide adequate security for the department's loan. An existing department housing loan made pursuant to section 45.352, 1971 Stats., or section 45.80, Wis. Stats., may be

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increased to finance improvements to the home mortgaged to the department.

(2) DEPARTMENT'S PRIORITY POSITION. The veteran will be required to submit a commitment from the proposed primary lender with the application. Such commitment will be directed to the department and will agree that only the amount of loan so committed will have priority of lien over the department's second mortgage, and that additional moneys advanced, except for the payment of taxes and insurance, will not have such priority without written consent by the department.

(3) PRELIMINARY EVIDENCE OF TITLE AND FINANCING. When the primary lender is a private individual or where the department cannot be assured that the disbursement of loan funds will be adequately supervised, a copy of the proposed primary mortgage and mortgage note, and a preliminary attorney's opinion of title on the abstract extended to date, or a current title report, must be submitted. A preliminary attorney's opinion of title on the abstract extended to date or a current title report must also be submitted when an existing primary mortgage loan is to be retained or assumed by the applicant or when the department is requested to make a first mortgage loan.

(4) MAXIMUM PRIMARY FINANCING. Where a veteran who is required to obtain maximum primary financing under the provisions of section 45.71 (11) (a), Wis. Stats., reports inability to obtain a mortgage equal to at least 60% of the cost of the property intended to be purchased, constructed, or refinanced, the veteran must verify that the financing which has been obtained constitutes maximum primary financing by submitting statements from local lending institutions which set forth:

- (a) The amount of the loan applied for by the veteran.
- (b) The maximum loan they would be willing to make to the veteran.
- (c) The reasons for not approving a mortgage loan equal to at least 60% of the total cost of the property.

(5) DISBURSEMENT OF LOAN FUNDS. The department shall establish appropriate procedures to regulate and control the disbursement of loan funds so as to assure proper application and to properly secure the department's investment, and for that purpose may designate local disbursing agents to act for and under the direction of the department.

(6) INCREASE IN PRIMARY MORTGAGE LOAN. That part of a loan which, at the time the loan is made, is in excess of the amount stated in the primary lender's commitment, or any subsequent increase or advance in the principal balance, except for the payment of taxes and insurance, shall not acquire priority of lien superior to the department's second mortgage unless approved in writing by the department. In such cases, the department may take whatever action it deems advisable to protect its second mortgage interest and may require immediate payment of its loan.

(7) INSTRUMENTS NECESSARY TO COMPLETE LOAN. The department shall withhold \$100 of the loan proceeds until the following instruments have been received:

(a) The note to the department properly executed and of even date with the mortgage and/or chattel security agreement.

(b) The mortgage to the department properly executed and recorded and, in cases involving mobile home loans, the properly executed chattel security agreement or both such mortgage and such chattel security agreement.

(c) In cases where the veteran owns the land on which such veteran's home is located or is to be located, evidence that the mortgage to the department is a valid lien subject only to the primary mortgage, if any, described in the primary lender's commitment to the department. Such evidence shall consist of either an attorney's opinion of title directed to the department or a title insurance policy.

(d) A memorandum of fire and extended coverage insurance or homeowners insurance in an amount at least equal to the appraised value of the improvements at the time of application.

(e) A copy of the closing statement in all purchase transactions showing that all tax credits given a veteran on closing have been deposited in an escrow account to be applied as the taxes shall become due.

(f) In cases involving mobile home loans:

1. A remittance payable to the state of Wisconsin, department of transportation, in the amount of the fee required to perfect the department's security interest.

2. The certificate of title with the department's chattel security interest set forth thereon.

(8) TITLE EVIDENCE AND PROPERTY INSURANCE. (a) Where a veteran fails to provide evidence that the mortgage to the department is a valid lien subject only to the primary mortgage, if any, described in the primary lender's commitment, or fails to carry and pay for fire and extended coverage insurance or homeowners insurance in an amount at least equal to the appraised value of the improvements at the time of application on property mortgaged to the department, the department shall insure its mortgage interest in the property involved with the state insurance fund or shall procure the necessary title evidence and charge the cost to the veteran.

(b) After the department has received an initial memorandum of fire and extended coverage, fire and windstorm or homeowners insurance coverage which satisfies the requirements of subsection (7) (d), or Wis. Adm. Code section VA 3.04 (4), or if the department has a memorandum of such insurance coverage in its files, the department shall assume that the property involved is continuously covered by such insurance and neither attempt to obtain renewal policies nor make any other effort to assure that its mortgage interest in the property involved is continuously insured until it receives notice of the lapse, cancellation, or non-renewal of such property insurance coverage.

(c) When the department is notified of the cancellation, lapse or non-renewal of a fire and extended coverage, homeowners or fire and windstorm insurance policy insuring a property in which it has a mortgage interest, the veteran involved shall be notified that it is such

veteran's responsibility to obtain and pay for adequate insurance coverage and shall be instructed to submit a memorandum of such insurance coverage to the department and, until such memorandum is received, the department shall insure its interest in such property with the state insurance fund and may charge the account of each veteran involved not to exceed \$2.00 per month to offset the cost of state insurance and administrative expenses incurred in connection with the administration of this paragraph.

(9) **PAYMENT DISTRIBUTION.** Payments will be applied first to interest, then to mortgage cancellation life insurance premiums, and then to principal.

(10) **REDUCTION IN MONTHLY PAYMENTS.** The terms of the contract between the veteran and the department must be complied with by the veteran after the note and mortgage have been executed, but the department may change the time and manner of repaying the obligation at the request of the veteran when such change is justified by circumstances not in existence at the time the loan was made.

(11) **SUBORDINATION AGREEMENT.** The department may execute a subordination agreement to permit an increase in a veteran's present primary mortgage or to replace his present primary mortgage with another in an amount equal to or in excess of the balance owing on the present primary mortgage when it is satisfied that the property will provide adequate security for its mortgage after the proposed increase in the primary mortgage.

(a) The veteran must submit evidence of such veteran's present income and of the shelter cost payments under the repayment terms of the proposed new primary note and mortgage to establish that the new shelter cost payments will not be excessive in view of present income.

(b) The department may execute a subordination agreement to give priority to a proposed primary mortgage where the department's mortgage has been prematurely recorded or in exceptional cases without requiring the evidence set forth in paragraph (a).

(12) **PARTIAL RELEASE OF MORTGAGE.** The department may release a portion of the property providing security for its mortgage if the release of such property will not unduly diminish the value of the remainder of the property. The department may require that any funds received by a veteran from the sale of the property so released must be applied pro rata to all mortgages thereon in the ratio existing between such mortgages at the time the department's loan was made. If the primary mortgagee waives claim to such funds or if the department holds the primary mortgage, then such funds shall be applied as a principal reduction of the department's mortgage loan. If all or part of such funds are to be used to improve the property the department may approve such use, provided that the expenditure of said funds will be supervised. Notwithstanding the provisions of this section of Wis. Adm. Code section VA 4.05 (3), the department may, in exceptional cases, release a portion of the property providing security for its mortgage without requiring either that funds received by the veteran from the sale of the property be applied to the mortgages thereon or that such funds must be used for the improvement of the veteran's property if it is satisfied that the property

remaining after execution of the partial release will adequately secure its mortgage balance.

(13) **RELEASE OF SATISFACTION.** The department's satisfaction of mortgage, the mortgage and mortgage note shall not be released for a period of 3 weeks following receipt of final payment, unless final payment is received in the form of cash, bank draft, bank money order, cashier's check, certified check, savings and loan or building and loan association check, credit union check or insurance check.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; am. (8) (c), Register, July, 1976, No. 247, eff. 8-1-76.

VA 4.10 Acceleration. (1) **FALSE STATEMENT BY APPLICANT.** Whenever it is determined that an applicant has obtained a housing loan through fraud, misrepresentation, or through concealment of a material fact, the mortgage note may be accelerated and full payment demanded.

(2) **TRANSFER OF POSSESSION.** The department or authorized lender may accelerate the mortgage note and require that the mortgage loan be paid in full when a veteran transfers physical possession of the mortgaged premises, and the mortgage will provide for such acceleration.

(3) **SALE OF PROPERTY.** Subject to the provisions of section 45.78 (2) (a) and (b), Wis. Stats., the department or authorized lender will accelerate a mortgage note and require that the mortgage loan be paid in full when the veteran completes a sale of the homestead mortgaged to the department or authorized lender.

(4) **DEFAULT.** Where a veteran borrower is in default in loan repayments or has substantially breached mortgage covenants, the department may accelerate a secondary loan mortgage note and the authorized lender may accelerate a primary loan mortgage note with the department's consent.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74.