

CR 85-162

CERTIFICATE

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Revisor of Statutes
Bureau

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to the property tax deferral loan program was duly approved and adopted by this department on July 17, 1986.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 17th day of July, 1985.

Michael Ley

Michael Ley
Secretary of Revenue

ML:bet
430710

9-7-86

ORDER OF THE DEPARTMENT OF REVENUE

ADOPTING RULES

To create chapter Tax 17 relating to the property tax deferral loan program.

Analysis by the Department of Revenue

This chapter contains 4 rules which interpret Chapter 77, Subchapter IV of the Statutes relating to the property tax deferral loan program. The rules contain administrative provisions, set forth eligibility requirements, describe loan application and review procedures and describe loan repayment requirements.

Section Tax 17.01 provides definitions of terms, describes how property taxes may be allocated to a qualifying dwelling unit, describes insurance requirements for property located in a flood plain, provides to whom a loan check will be made payable, places limitations on the use of loan proceeds, describes the conditions under which a co-owner may assume the loan of a participant and explains how a loan applicant may appeal an adverse decision by the Department of Revenue.

Section Tax 17.02 provides that to be eligible for a loan the loan application Form PT, shall be signed by the applicant, the applicant's spouse and all co-owners, describes age requirements at the time a loan application is submitted, provides that an applicant residing in a qualifying dwelling unit shall not be ineligible because co-owners pay the property taxes, provides that upon the death of a participant a co-owner having no recorded interest in the dwelling unit, other than a surviving spouse who acquires title to the property, is not eligible for transfer of the loan account, describes conditions which will cause applicants to be disqualified for a loan, provides that only one person may apply for a loan on each dwelling unit, and establishes a minimum loan amount.

Section Tax 17.03 describes how and when to apply for a loan and the review and verification procedures to be followed by the Department of Revenue.

Section 17.04 describes loan repayment requirements, establishes the order of application of loan repayments, requires notification to the Department of any event triggering mandatory repayment of the loan, and provides that the Department may determine and demand the amount of repayment due if it is found the participant was not eligible for a loan at the time the loan was issued, or the participant ceases to meet the eligibility requirements, or an excessive loan was claimed. This section also provides that the annual interest rate as specified by the secretary shall be included in the loan agreement between the Department and the participant, shall be simple and fixed for the life of each loan, shall accrue from the loan check date until the repayment of the loan, and shall be sufficient to cover all operating expenses of the program. Repayment of the loan may be enforced by foreclosure action with the costs of foreclosure being paid from the proceeds of the sale.

Pursuant to the authority vested in the Department of Revenue by ss. 77.66(3) and 77.67(4), Stats., the Department of Revenue hereby adopts rules interpreting Chapter 77, Subchapter IV, Stats., as follows:

SECTION 1. Chapter Tax 17 is created to read:

CHAPTER TAX 17

PROPERTY TAX DEFERRAL LOAN PROGRAM

Tax 17.01 ADMINISTRATIVE PROVISIONS (ss. 77.63, 77.64, 77.65, 77.655, 77.66 and 77.67, Stats.) (1) PURPOSE. This section describes the administrative provisions pertaining to the property tax deferral loan program, as authorized by ss. 77.66(3) and 77.67(4), Stats.

(2) DEFINITIONS. In this chapter and chapter 77, subchapter IV, Stats.:

(a) "Applicant" means the person who has filed an application for a loan but has not yet been accepted into this program.

(b) "Co-owner" means a natural person who is age 60 or over on the date the initial application is submitted to the department and has an ownership interest in the qualifying dwelling unit. For purposes of this program, the spouse of a participant has an ownership interest in the dwelling unit. The spouse of a co-owner is not a co-owner, unless the spouse has an ownership interest in the dwelling unit.

(c) "Income" means household income as defined in s. 71.09 (7)(a) 1 and 3, 1983-84 Stats., and ss. Tax 14.02(2)(b)2 and Tax 14.03.

(d) "Loan Agreement" means an application signed by the participant and all co-owners, which has been approved by the department and on which a loan check has been issued.

(e) "Ownership Interest" means to be named as an owner on a title instrument which is recorded in the records of the Register of Deeds for the county in which the dwelling unit is located, except that ownership interest for a spouse under s. 77.64(1), Stats., does not have to be recorded.

(f) "Property taxes" means the net real estate taxes after application of statutory state tax credits levied on a qualifying dwelling unit in 1985 or thereafter under ch. 70, Stats. If the qualifying dwelling unit is purchased during the year in which the loan application applies and the buyer is given credit in the closing agreement for the portion of property taxes allocable to the seller for that year, only the buyer's portion of the property taxes shall be used in applying for a loan under this program. In this paragraph, "real estate taxes" do not include any of the following:

1. Special assessments pertaining to realty.
2. Delinquent taxes, including delinquent interest and penalties, for years prior to the year for which the loan application applies.
3. Charges for service or other charges added to the property tax bill.

(g) "Qualifying Dwelling Unit" includes a unit in a condominium or cooperative building, regardless of the number of dwelling units within the building. However, it does not include a unit in other buildings with more than 4 units, such as an apartment building; nor does it include a mobile home as defined in s. 66.058, Stats. If 100% of a dwelling unit is not used exclusively as the applicant's personal residence and other use exceeds 20%, only the percentage used for personal residence shall qualify as a dwelling unit under this program. A qualifying dwelling unit also includes up to one acre of land connected to the qualifying improvements. It may also include an allocable portion of a garage and other buildings used to maintain the dwelling unit.

(h) "Temporary residency in a health care facility" includes a temporary stay at a hospital or nursing home.

Note: Example. If a person is in a hospital during the year preceding the year of participation and it can reasonably be assumed that the absence from his or her dwelling unit is temporary, up to six months of that hospital stay may be used to meet the eligibility requirements of s. 77.65(2), Stats.

(3) ALLOCATION OF PROPERTY TAXES. To determine the proportion of property taxes eligible for a loan when the parcel of property includes more than a qualifying dwelling unit as defined in s. 77.64(7), Stats. and sub. (2)(g) or more than one acre of land connected to it, or both the portion eligible for a loan may be determined on any reasonable basis, subject to the department's approval. The allocation may include consideration of any of the following factors:

(a) The fraction the assessed value of the qualifying dwelling unit and up to one acre of land connected to it on the current tax bill bears to the total assessed value of the property on the same tax bill.

(b) The fraction the insured value of the qualifying dwelling unit on the current insurance policy bears to the total insured value of the property on the same insurance policy.

(c) The fraction the square footage, or number of rooms or units, that are part of the qualifying dwelling unit bears to the total square footage, or number of rooms or units, in the property.

(d) The fraction the appraised value of the qualifying dwelling unit and up to one acre of land connected to it bears to the total appraised value of the property according to a current appraisal by a certified Wisconsin appraiser.

(4) FLOOD PLAIN INSURANCE. In addition to fire and extended casualty insurance required by s. 77.65(3), Stats., separate flood insurance is required if the dwelling unit is located in a designated flood plain as defined under the National Flood Insurance Act of 1968, 42 United States Code §4001, et. seq.

(5) ISSUANCE OF LOAN CHECK. (a) The loan check shall be made payable to the participant only when satisfactory proof of payment of the property tax is furnished to the department.

(b) If satisfactory proof of payment is not furnished, the loan check shall be made payable to the participant and either the municipal or county treasurer according to which has authority to receive the property tax payment at the time the state's loan check is mailed.

(6) PROHIBITED USE OF LOAN PROCEEDS. (a) The department may not setoff any portion of a loan approved under this program against any delinquent account owed the department or another state agency by the participant, the participant's spouse or any co-owner.

(b) The loan may not be subject to garnishment, levy or attachment by any other creditor of the participant.

(7) ASSUMPTION OF PARTICIPANT'S ACCOUNT BY CO-OWNER. (a) If a participant ceases to reside in a qualifying dwelling unit or if the participant's total ownership interest in the qualifying dwelling unit is transferred to one or more co-owners, or if both of these events occur, a co-owner may assume the participant's account under this program if both of the following occur:

1. The co-owner applies to assume the outstanding loan within 90 days of the date the participant ceases to reside in the qualified dwelling unit or the date when the participant transfers his or her ownership interest in the qualifying dwelling unit, whichever occurs first.

2. The co-owner permanently resides in the qualifying dwelling unit on the date that he or she submits the application to assume the participant's account.

(b) A co-owner who meets all of the requirements of this program may qualify for additional loans by submitting an application under s. Tax 17.02(2).

(8) DISAGREEMENT WITH DEPARTMENT. Applicants and participants who are aggrieved by the department's determination with respect to an application for a loan under this program or with respect to loan repayment may within 60 days after receipt of a notice of determination, file a written petition for redetermination with the department's appellate bureau. The appellate bureau shall render a decision on the petition and notify the petitioner of its decision within 60 days after the petition is filed. Applicants and participants aggrieved by the department's decision may appeal the decision to the circuit court as provided in s. 77.66(8), Stats.

Tax 17.02 ELIGIBILITY. (ss. 77.64, 77.65, 77.66, and 77.67, Stats.)

(1) PURPOSE. This section clarifies to whom and under what conditions the department may make loans under this program.

(2) LOAN APPLICATION. To establish eligibility for a loan, a loan application, Form PT, shall be submitted to the department after being signed by the applicant, the applicant's spouse and all co-owners. The signatures shall denote acceptance of all terms of the application.

NOTE: Form PT may be obtained at any department of revenue office or by writing or telephoning the department as follows: Wisconsin Department of Revenue, P.O. Box 8903, Madison, Wisconsin 53708; telephone (608)266-1961.

(3) AGE AT TIME OF APPLICATION FOR LOAN. To be eligible for a loan, an applicant shall be 65 years of age or older and an applicant's spouse and any other co-owners shall be 60 years of age or older, on the date the application is submitted to the department.

(4) PROPERTY TAX PAID BY COOWNERS. An applicant living in a qualifying dwelling unit having one or more co-owners who do not reside in the dwelling unit but who pay all or part of the unit's property taxes, shall not be ineligible for a loan under this program because of the payment arrangements.

(5) TRANSFER OF ACCOUNT UPON DEATH OF A PARTICIPANT. Upon the death of a participant, a co-owner who has no ownership interest in the qualifying dwelling unit, other than a surviving spouse who acquires title to the property, shall not be eligible for transfer of the loan account under s. 77.655, Stats.

(6) DISQUALIFYING CONDITIONS. An applicant shall not be eligible for participation in this program if:

(a) The applicant dies before the loan is issued.

(b) The applicant's interest in the qualifying dwelling unit is disposed of prior to the loan being issued.

(c) The applicant resides in a qualifying dwelling unit subject to a life estate, unless the persons holding the remainder interest qualify as co-owners and together with the applicant own the property free and clear, as defined in s. 77.64(3), Stats.

(d) The applicant received title to the qualifying dwelling unit primarily to obtain a loan under this program.

(7) TWO OR MORE PERSONS QUALIFYING FOR LOAN. Only one person may apply for a loan for payment of real estate taxes for a year, on a qualifying dwelling unit, regardless of the number of co-owners. When two or more persons are qualified to apply for a loan on a single dwelling unit, they shall determine between them who the applicant shall be.

(8) CO-OWNERS AS PARTICIPANTS. Co-owners as defined in s.77.64(1), Stats., who could individually qualify as participants and who reside in separate dwelling units in an otherwise qualifying multi-unit building, may each apply for a loan under this program for the unit in which they each reside. The loan may not exceed the amount of the property tax allocable to the dwelling unit in which they each reside and when added to the sum of the taxes which are allocable to all other units, may not exceed the total of the property taxes for the entire multi-unit building.

(9) NOMINAL LOANS. Under s.77.66(1), Stats., the interest accruing on loans shall be sufficient to meet the expenses arising from the operation of this program. To satisfy the intent of the law and to insure equitable disbursement of program costs among all loans, loans will not be approved for amounts less than \$100.00, unless the applicant provides evidence to the satisfaction of the department that a financial hardship exists to pay property taxes.

Tax 17.03 APPLICATION AND REVIEW (ss. 77.64, 77.65, 77.655 and 77.66, Stats.) (1) PURPOSE. This section describes how to apply for a loan under this program and the review and verification procedures to be followed by the department of revenue.

(2) APPLICATION. Only one application for a loan to pay property taxes on a dwelling unit, including delinquent interest and penalties, may be filed for any one year. Form PT, titled "Senior Citizens Property Tax Deferral Loan Application" shall be used to apply for each loan under this program.

(3) HOW TO FILE. (a) An application for each loan under this program shall be made on Form PT and submitted to the Wisconsin department of revenue as stated on the form.

(b) Form PT shall be legibly completed in its entirety and shall be signed and dated by the applicant, the applicant's spouse and all co-owners of the dwelling unit which is the subject of the loan application. If a person is unable to sign Form PT, the provisions of s. Tax 14.01(5)(b)4, shall apply.

(c) There shall be submitted with Form PT the following documents:

1. A copy of the real estate tax bill clearly identifying the property and the real estate taxes to which the loan proceeds will be applied.

2. Copies of any Wisconsin income tax returns or homestead credit claims which will be or have been filed by the applicant and the applicant's spouse for the calendar or fiscal year immediately preceding the calendar year in which the property taxes for which the loan is made are due.

3. Schedule PT-1, containing Parts I, II and III, as necessary.

(d) A separate application shall be submitted for each loan to pay each year's real estate tax.

(4) WHEN TO FILE. Under s. 77.65(1), Stats., a loan shall be applied for by June 30 of the year in which the taxes are due. An application submitted by mail and postmarked after June 30 shall be rejected and returned to the applicant.

(5) REVIEW AND VERIFICATION OF LOAN APPLICATIONS. (a) The department of revenue shall review to the extent it considers necessary to meet this program's objectives, all loan applications prior to issuing loans under this program. The review may include verification that:

1. The application is complete and includes all required information and attachments.

2. The information, including computations, is correct.

3. Real estate taxes payable are supported by a copy of an authentic tax bill.

4. The dwelling unit has adequate insurance coverage and the department may be added as an insured party on the insurance policy covering the dwelling unit.

5. That all other requirements of the loan program are met.

(b) If a timely-filed application is rejected and returned to the applicant by the department for incorrect or insufficient information, the application may be revised and resubmitted for department approval within 30 days of its return to the applicant or by June 30 of the year in which the application is due, whichever is later.

Tax 17.04 REPAYMENT OF LOAN. (s. 77.66, Stats.) (1) PURPOSE. This section describes loan repayment requirements and procedures, when the department may demand and collect amounts due, and the date from which interest applies.

(2) REPAYMENT OF LOAN. Sections 77.66(4)(b), (5), and (6), Stats., state the provisions under which a loan shall become due and payable. Those statutory provisions shall also apply to:

(a) A co-owner who assumes the participant's account under s.77.655, Stats.

(b) A participant, or co-owner who has assumed the participant's account under s.77.655, Stats., who ceases to reside in the qualifying dwelling unit. A person shall not be considered to have ceased to reside in a qualifying dwelling unit where that person has established residency in a health care facility.

(3) AUTHORITY AND ORDER OF APPLICATION OF REPAYMENT. All loans issued under this program shall be repaid to the department of revenue as provided in this section and s. 77.66(4)(b) and (c), Stats. In the case of multiple loans on any one dwelling unit, payment shall be applied to the loans as specified by the payor, and if not specified, the department shall apply the payment to the loan bearing the earliest issue date. Payment on any loan shall first be applied to fees and interest and any remainder shall be applied to the loan principal.

(4) NOTIFICATION OF LOAN TERMINATING CONDITIONS. The participant or a co-owner who has assumed the participant's account under s.77.655, Stats., or the personal representative for the estate of either, shall notify the department within 90 days after any event specified in s. 77.66(4)(b), Stats. or in sub.(2), which will require repayment of the loan, and shall make arrangements with the department to promptly repay the loan.

(5) TIME WITHIN WHICH LOAN APPLICATION MAY BE VERIFIED. Under s. 77.66(6) Stats., the department may verify the correctness of a loan application and any other information regarding eligibility of the participant as long as the loan is outstanding. If the department finds the participant was not eligible under this program at the time the loan was issued or at any time the loan is outstanding, it may at any time accelerate and demand payment of the balance due, including interest, by a specified date.

(6) CEASING TO MEET ELIGIBILITY REQUIREMENTS. Under s. 77.66(5), Stats., the department may require partial repayment of outstanding loans if a participant ceases to meet this program's eligibility requirements. In this event the department may determine the amount of the repayment due, including interest, and demand payment of that amount by a specified date.

(7) EXCESSIVE LOANS ISSUED. When the department determines that an excessive loan was issued, the department may accelerate and demand payment of a portion or all of the loan by a specified date.

(8) INTEREST DUE ON LOANS. (a) The annual rate of interest payable on loans issued under this program shall be determined each year by the secretary and specified in the loan agreement, on Form PT, between the department and the participant and co-owners.

(b) The rate of interest shall be simple interest, not compounded, and shall remain fixed at the rate specified for the life of the loan.

(c) The interest shall begin to accrue on the date the loan check is issued and shall be due and payable at the same time the loan is repayable.

(d) The interest rate shall be sufficient to recover all operating expenses of the program. Normal operating expenses may include the following:

1. Costs associated with preloan and postloan verifications, audits, and investigations of applications, participants, and co-owners.

2. Costs associated with independent audits of the overall operation of this program.

3. Issue costs, interest and other expenses associated with any revenue obligations issued under s. 77.67, Stats., to fund this program.

4. Costs to insure full recovery of outstanding loans on a dwelling unit in the event of deficiency.

5. All other necessary operating expenses associated with administration of this program.

(9) ENFORCEMENT OF LOAN REPAYMENT. Under s. 77.66(9), Stats., when a loan becomes due and payable the department may enforce collection by instituting foreclosure action against the dwelling unit property in accordance with ss. 779.09 to 779.12, Stats. All costs associated with the foreclosure action, including attorney fees, shall be paid out of the proceeds from the sale of the property.

The rules contained in this order shall take effect on the first day of the month following its publication in the Wisconsin Administrative Register as provided in s. 227.026(1)(intro.), Wis. Stats.

Dated:

July 17, 1976

DEPARTMENT OF REVENUE

By:

Michael Ley

Michael Ley
Secretary of Revenue



State of Wisconsin

DEPARTMENT OF REVENUE

OFFICE LOCATED AT
125 SOUTH WEBSTER STREET

MAILING ADDRESS
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

July 17, 1986

Orlan L. Prestegard
Revisor of Statutes
30 West Mifflin Street, Suite 904
Madison, Wisconsin 53703

Re: Clearinghouse Rule 85-162

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue adopting rules relating to the property tax deferral loan program.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

A handwritten signature in cursive script that reads "Michael Ley".

Michael Ley
Secretary of Revenue

ML:bet
Enclosure
430810

cc: Douglas J. LaFollette, Secretary of State
Prentice Hall, Inc.
Commerce Clearinghouse, Inc.



State of Wisconsin

DEPARTMENT OF REVENUE

OFFICE LOCATED AT
125 SOUTH WEBSTER STREET

MAILING ADDRESS
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

July 17, 1986

Douglas LaFollette
Secretary of State
Room 271, GEF 1
Madison, WI 53702

Dear Secretary of State LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 85-162.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

A handwritten signature in cursive script that reads "Michael Ley".

Michael Ley
Secretary of Revenue

ML:bet
Enclosure
430310a

cc: Revisor of Statutes