

cant or the combined annual income of the applicant and co-applicant does not exceed the statutory maximum set forth in s. 45.74(1), Stats.

(16) "Mortgagee" means in the case of a primary loan the department or the authority and in the case of a secondary loan means the department and the primary lender.

(17) "Mortgagor" means a successful applicant named in a mortgage or a chattel security agreement for a housing loan, or both, or the non-applicant spouse of a successful applicant named therein.

(17m) "Primary loan" means a housing loan under s. 45.79, Stats.

(18) "Primary lender" or "primary mortgagee" means the lender who will have the first mortgage against property on which a secondary loan application has been made at the time of the closing of the secondary loan or who has such a first mortgage at the time of submission of a secondary loan application to the department.

(19) "Property" means the housing accommodation, garage, land and any other non-housing improvements thereon, the purposes for which a housing loan may be made.

(20) "Residence" means the fixed and primary residence of an applicant which such applicant occupies or intends to occupy as such.

(21) "Secondary loan" means a housing loan under s. 45.352, 1971 Stats., or s. 45.80, Stats.

(22) "Shelter cost ratio" means an applicant's "anticipated annual shelter payment" divided by such applicant's "annual income".

(23) "Stable employment" means employment for the same employer for not less than 6 months or employment in the same or similar circumstances for not less than 2 years or if verified by the employer as permanent.

(24) "Total debt payments" means the applicant's "debt servicing payments" plus monthly payments required on installment debts with one or more but less than 13 remaining monthly payments due at the time of application for a housing loan.

(25) "Veteran" in the case of a "secondary loan" means either veteran as defined in both ss. 45.35 (5) and 45.71 (16) (a), Stats., or such a deceased veteran's unremarried surviving spouse or minor or dependent child who is a resident of and living in this state at the time of making application for a "housing loan", and, in the case of a "primary loan" means either a veteran as defined in s. 45.71 (16) (a), Stats., or such a deceased veteran's unremarried surviving spouse or minor or dependent child who is a resident of and living in this state at the time of making application for a certificate of eligibility or a primary loan.

(26) "Work credit" or "sweat equity" means actual labor performed by the applicant and shall not include the cost or value of materials used.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; r. and rec. Register, September, 1978, No. 273, eff. 10-1-78; am. (11) and (24), Register, December, 1979, No. 288, eff. 1-1-80; am. (7), Register, November, 1980, No. 299, eff. 12-1-80; am. (1), (4), (13), (16) and (25), r. (9), cr. (17m), Register, February, 1989, No. 398, eff. 3-1-89.

Register, September, 1990, No. 417

**VA 4.02 Mobile home loans.** (1) **SECURITY.** Notwithstanding the provisions of s. 45.80 (2) (c), 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 COST.** Furniture and appliances, moving and utility hookup expenses and taxes included as a part of the purchase price of the mobile home and skirting and tiedowns shall be considered a part of the total cost of the mobile home for the purposes of ss. 45.74 and 45.77, Stats. Such furniture and appliances shall be included in the chattel security agreement. Furniture and appliances which are not fixtures shall be separately appraised in connection with all applications for primary loans, shall be paid for from a portion of the applicant's down payment, and shall be conveyed by separate bills of sale at the time of the closing of these loans.

(4) **SALES PRICE AS VALUE.** Notwithstanding the provisions of s. 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.

(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 primary 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 applicant, 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; am. (3) and (7), Register, September, 1978, No. 273, eff. 10-1-78; am. (3), Register, April, 1986, No. 364, eff. 5-1-86; am. (6), Register, February, 1989, No. 398, eff. 3-1-89; am. (3), Register, January, 1990, No. 409, eff. 2-1-90.

**VA 4.03 General loan policy both programs.** (subch. II of ch. 45, Stats.) (1) **LOAN REPAYMENT RECORD.** The department may not issue a certificate of eligibility to a veteran or approve a loan to a veteran who is delinquent on a loan from the department.

(2) **REFINANCE LOANS.** Refinance loans may be made only if the applicant is in legal danger of losing the applicant's property, which legal danger could not have been avoided by prudent financial management,

2. A copy of the recorded warranty deed if the land is owned by the applicant.

(e) Work credit may be agreed to between the applicant and the builder in order to arrive at a reduced sale price to the applicant or a reduced contract-to-construct price to the applicant, but the amount of the loan applied for shall not include the value of such work credit agreed to so as to result in payment to the applicant for such work credit, and no part of the required downpayment can be made up of the value of such work credit and no payment shall be made to the applicant by either the lender or builder for work credit.

(f) The appraisal submitted to the department shall be based upon the value of the property after completion of construction in accordance with the plans and specifications.

(g) Upon completion of construction the general contractor shall warrant, in writing, against defects in materials and workmanship for a period of not less than one year from the date of completion. Home owners warranty corporation warranties shall be obtained if possible.

(h) Lien waivers shall be obtained and submitted to the lender upon completion.

(i) The housing accommodation and garage, if applicable, shall be fully completed and final inspection shall be made by an approved appraiser or architect prior to closing.

(j) A single disbursement by the department will be made only upon compliance with all of the foregoing requirements and, in the case of a secondary loan, upon assurance that the primary lender's funds have been fully disbursed.

(6) SECOND APPLICATIONS. (a) When an applicant for a certificate of eligibility remains obligated to the department on either a secondary loan or another primary loan and the applicant is otherwise qualified for such certificate, a conditional certificate of eligibility will be prepared authorizing application for a primary loan, subject to the requirement that the existing secondary or primary loan is fully paid prior to or at the time of closing of the primary loan.

(b) If an applicant failed to repay a department loan in a timely manner or quitclaimed real estate back to the department in lieu of foreclosure within the last 5 years, the applicant shall be ineligible to receive a second certificate of eligibility, a primary housing loan or a second mortgage housing loan unless the applicant can establish strong offsetting characteristics. The department may consider whether the department 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.

(7) SURVEY. Where the legal description of the property is in metes and bounds, a survey, or copy of a survey, clearly delineating a single perimeter of the entire plot and location of any existing or proposed improvements shall be required in connection with a primary loan, unless the cost of such a survey would be more than \$300 and it is determined by the department that there is little question as to the location of the improvements within the perimeter. In these cases a surveyor's or professional engineer's letter will be required.

(8) **FLOOD PLAIN.** In purchase loan applications, if the subject property is in a flood plain, the offer to purchase shall contain a statement by the broker or seller to that effect. If it is in a flood plain, flood insurance shall be obtained on the property and available at the time of closing. The property shall be deemed to be in the flood plain only if the buildings thereon are in the flood plain.

(9) **WELLS AND SEPTIC SYSTEMS.** (a) If the property the applicant wishes to purchase, construct, improve or refinance involves a well, community water supply (not municipally operated) or a private septic disposal system, then a well agreement, safe water report (from a laboratory certified by the state of Wisconsin), percolation tests if a construction loan is involved or documentation evidencing an adequate sewage disposal system (not municipally operated) must be submitted to the department with the application.

(b) Housing loans will not be approved for the purchase of or construction of housing accommodations on properties where the septic disposal systems are gas fired or where chemical toilets are utilized.

(c) A housing loan for the purpose specified in s. 45.76 (1) (b), Stats., will be approved on any property where the septic disposal system relies upon a holding tank with regular pumping and removal on a contract basis required only if, with the exception of the septic disposal systems referred to in par. (b), a holding tank is the only system of sewage disposal permitted for the construction site and only if the installation thereof has been approved by the local unit of government and all permits necessary for the installation thereof have been obtained, and such a loan for the purposes specified in s. 45.76 (1) (a) and (b), Stats., will only be permitted where the size of the holding tank equals or exceeds the size required under ch. ILHR 83, Wis. Adm. Code, based upon the number of bedrooms the existing housing accommodation has or the housing accommodation to be constructed will have, and where the applicant:

1. Has entered into a contract with a properly licensed sewage hauling contractor who must have demonstrated past satisfactory performance by having been relicensed at least once by the department of natural resources; and

2. Has demonstrated sufficient financial ability to handle future increased costs of pumping by having acquired the proposed down payment on the property to be purchased or constructed by savings rather than by gift and by having debt servicing payments and a shelter cost ratio not exceeding the percentages set forth in s. VA 4.05 (8), unless the applicant meets the criteria for larger than normal debt servicing payments and shelter cost ratios set forth in said section, has a down payment of at least 7½% and will be able to retain funds in the amount of at least \$1,500 after making a contemplated down payment and paying closing costs in relation to the home purchase or construction.

(10) **SEPARATE DWELLINGS.** The department shall not approve a housing loan to an applicant and co-applicant for a duplex or a multiple unit housing accommodation where the applicant and co-applicant are occupying or intend to occupy separate dwelling units therein even though both are veterans.

(11) **TERM.** The amortization period of a housing loan must be at least 5 years less than the remaining economic life of the housing accommodation as set forth in the appraisal, not to exceed 30 years.

**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; r. and recr. Register, September, 1978, No. 273, eff. 10-1-78; emerg. am. (2) (intro.), eff. 11-11-78; emerg. renum. (9) to be (9) (a) and (b), cr. (9) (c), eff. 11-24-78, renum. (9) to be (9) (a) and (b), cr. (9) (c), Register, February, 1979, eff. 3-1-79; am. (2) (intro.), Register, June, 1979, No. 282, eff. 7-1-79; am. (5) (b), (c) and (d) and (6) (d), Register, December, 1979, No. 288, eff. 1-1-80; am. (5) (a) and (9) (b), r. (5) (d), Register, February, 1981, No. 302, eff. 3-1-81; r. (5), am. (7), Register, January 1984, No. 337, eff. 2-1-84; correction in (9) (c) (intro.) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1986, No. 364; am. (3) (a), (c), (h), (k), (n) (intro.), (o) (intro.), and 3., (r) (intro), and (7), r. and recr. (6), Register, February, 1989, No. 398, eff. 3-1-89; am. (3) (d) to (f), Register, January, 1990, No. 409, eff. 3-1-90; correction in (9) (c) 2. made under s. 13.93 (2m) (b) 5, Stats., Register, January, 1990, No. 409; am. (1) and (6) (b), Register, September, 1990, No. 417, eff. 10-1-90.

**VA 4.05 Financial requirements. (subch. II of ch. 45, Stats.) (1) FUNDS.**

(a) Includes cash on hand, liquid investments, and except as provided in par. (b), any asset the conversion of which to cash would not result in substantial loss. Stocks and bonds, including U.S. Savings Bonds, are valued at market price as of the date of application and therefore no loss shall be considered upon sale. The funds of an applicant shall include all funds owned individually and jointly by the applicant and co-applicant. An applicant's vendor's interest in a land contract shall be considered funds unless the department determines that the conversion of such interest to cash would result in substantial loss to the applicant.

(b) Funds shall not include cash value of automobiles, household furnishings and appliances, personal effects, life insurance policies, retirement investment plans, stock or interest in an employer's business required as a condition of current employment, irrevocable trusts of which the applicant or co-applicant is the settlor but not the beneficiary or the proceeds of loans, except proceeds from loans against life insurance policies shall be considered funds.

(c) Business assets of a self-employed applicant shall not be included as funds unless working capital is determined to be in excess of normal business requirements in which case the excess shall be considered funds.

(2) **VETERAN'S CONTRIBUTION.** If the applicant's contribution required under ss. 45.74(5) and 45.77, Stats., or such closing costs and moving expenses as the applicant may be required to pay have been or are to be acquired by borrowing, the application may not be approved. The applicant must be financially able with the aid of the housing loan applied for to complete the contemplated purchase, construction, improvement or refinance and to pay all required closing and moving expenses. Work credits, rent credits or other reductions of the price of the property being acquired by an applicant may be allowed but only after the applicant evidences that a 5% down payment has been made from such applicant's own funds. In the case of a loan under s. 45.76 (1) (c), Stats., the applicant shall have at least 10% equity in the property upon completion of the improvements. Mortgage funds shall not be utilized to pay closing costs. Applicants shall submit verifications of all deposits in excess of \$100 which will constitute a portion of their contribution.

(3) **OTHER OWNED REAL ESTATE.** (d) When an applicant has sold real estate on a land contract, the department shall consider as income the payment being received by the applicant less the payment made on any underlying debt on the real estate.

(e) Release of all or any portion of or interest in other owned real estate assigned to or encumbered in favor of the department in connection with primary loans may be made pursuant to s. VA 4.08 (9), and from secondary loans pursuant to s. VA 4.09 (12).

(5) INCOME. (a) The adjusted gross income shown on an applicant's income tax return for the prior year shall be the "income" of a self-employed applicant or of an applicant who must pay substantial job connected expenses. However, in proper cases involving such applicants, the authorized lender or the department may accept a recent profit and loss statement and balance sheet covering a period of not less than 6 months or a recent profit and loss statement and balance sheet covering a lesser period and a copy of the income tax return of the former owner of the applicant's business as evidence of the "income" of such applicant. Such profit and loss statements and balance sheets must be professionally prepared. Seasonal employes income will be based on the applicant's previous year's tax return plus unemployment compensation if such compensation is customary for the applicant's type of employment and is verified.

(b) The "income" to be used for an applicant with an individual retirement account (IRA) or who participates in a deferred compensation plan is the adjusted gross income. The IRA adjustment to income or the amount invested in a deferred compensation plan or both shall not be added back to the applicant's income.

(c) One-half of gross rental income will be considered "income" if services are furnished to tenants and  $\frac{2}{3}$  of gross rental income will be considered "income" if no services are furnished. Such income shall be applied in full in the case of a sole applicant and in the case of an applicant and co-applicant such income shall be divided equally between the applicant and co-applicant. "Income" shall not include income from room rental in the home proposed for purchase, construction, improvement or refinance with a housing loan.

(d) Unless temporary in nature, tax free pensions and disability compensation may be considered "income" at 120% of face value if necessary to qualify an application.

(e) Part-time or overtime pay, bonuses, national guard or military reserve pay, unemployment compensation and the income of the applicant or co-applicant will be considered "income" only if acceptable, independent evidence is submitted to substantiate the regular and dependable nature thereof. The gross income the applicant is receiving from regular work shall in all cases be verified by the employer.

(em) Income from national guard or military reserves shall not be used to disqualify an application.

(f) Piece work pay and incentive pay may be considered "income" only if a history or other acceptable evidence of such income is submitted and accepted by the department.

(g) Scholarships, stipends and education benefits for actual time in school may be considered "income" only if they are regular and dependable.

(h) An application from an applicant about to retire or who is retired shall be analyzed based upon retirement income.

(i) Child support payments, separate maintenance payments, or alimony shall be considered as "income" to the extent that they are likely to be received consistently.