

Chapter VA 4

HOUSING LOANS

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VA 4.01 Objective. The department may loan to any veteran not more than the statutory limit for a housing loan from the veterans trust fund to assist him in providing a home for himself and his family. Such loan shall be limited to the amount required after the veteran has applied his own funds and has obtained the maximum amount of financing available from local lending agencies. The department shall give priority to the most necessitous cases. In considering such loans the department shall determine that such house is adequate for the veteran and his family, that the veteran's total commitments will not exceed his ability to repay, and that the total cost of a home to be purchased or constructed by a veteran does not exceed its fair market value.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; am. Register, December, 1965, No. 120, eff. 1-1-66; am. Register, October, 1967, No. 142, eff. 11-1-67.

VA 4.02 Allocation of funds. Available housing loan funds shall be allocated on March 1, July 1 and November 1 as follows: \$200,000 to be used by the department for housing loans in those counties which from time to time have exhausted regular allocations, and the balance shall be allocated to the counties on the basis of their veteran populations, as determined by the latest census of veterans compiled by the Bureau of the Census.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65.

VA 4.03 **History:** Cr. Register, March, 1965, No. 111, eff. 4-1-65; renum. to be VA 4.04 (11) and am., Register, December, 1965, No. 120, eff. 1-1-66.

VA 4.03 General loan policy. (1) STATUTORY LIMIT. No housing loan will be made to complement an economic assistance loan made for repairing or adding to a veteran's home or for the construction of a garage when the combination of such loans will exceed the statutory limit for a housing loan.

(2) DEFAULT ON ECONOMIC ASSISTANCE LOANS. The department will not approve an application for a housing loan to a veteran who is in default on an economic assistance loan.

(3) DEFINITION OF DEPENDENT. Dependent, for the purposes of this chapter, shall mean any person who is dependent upon the veteran for more than one-half of his support and who resides with the veteran.

(4) SINGLE VETERANS. A housing loan may be made to a single veteran with a dependent or dependents. A single veteran with no dependents will qualify for a housing loan only if he is able to establish

that the home he intends to purchase, construct or improve will be his permanent residence.

(5) **REFINANCING.** A loan for refinancing of existing housing indebtedness may only be made to assist a veteran who is in danger of losing his home through legal action, where the department is satisfied that the property will provide adequate security for its mortgage and where such loan will permit him to place his housing indebtedness on a sound financial basis.

(6) **NECESSARY IMPROVEMENTS.** A housing loan may be made for improvement to a veteran's present dwelling if necessary to provide adequate living quarters for the veteran and his family or if required to preserve the veteran's present housing investment, 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.

(7) **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.

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

(9) **EXCHANGE OF HOUSING.** A housing loan may be made to a veteran who has previously owned a home and sold it if the reason for the sale is acceptable to the department and if he uses the net proceeds realized from the sale to acquire his new dwelling. The department may, however, approve a loan where the veteran has paid or allow a veteran to pay non-housing obligations from such net proceeds if it is determined that such obligations were incurred for medical, hospital and funeral expenses, or for any other obligations for necessitous items which were incurred prior to the sale of the former home which would impair his ability to make future shelter cost payments. A sale of a home which has occurred more than one year prior to the date of application will not be subject to the provisions of this section.

(10) **SECOND APPLICATIONS.** Favorable consideration will be given to a veteran's second application for a housing loan where he sold his previous home for an acceptable reason, such as removal to another city by his employer, change of employment to increase his earning potential or job stability, or need for a larger home due to increase in his family. Where the veteran has sold his home within one year prior to date of second application he must show that the net proceeds received from the sale of his former home are used to acquire his new home, except that the department may approve a loan where the veteran has paid or allow the veteran to pay from the net proceeds obligations which were incurred for medical, hospital or funeral expenses. An existing department housing loan may be increased to finance improvements qualifying under subsection (6).

(11) **TWO-FAMILY UNITS.** Individual housing loans may be made to 2 qualified veterans for the purchase or construction of a two-family unit to provide a home for each.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; am. (6) and (10); renum. VA 4.03 to be VA 4.04 (11) and am., Register, December, 1965, No. 120, eff. 1-1-66; renum. from VA 4.04 to be VA 4.03; am. (1), (5), (8), (9), (10), Register, October, 1967, No. 142, eff. 11-1-67.

Register, October, 1967, No. 142

VA 4.04 Cost of housing accommodation and garage. The following bases will be used to determine cost of housing accommodation and garage for the purposes of section 45.352 (4) (d), 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, 1967, No. 142, eff. 11-1-67.

VA 4.05 Financial requirements. (1) **VETERANS FUNDS.** The word "funds" in section 45.352 (2) (b), Wis. Stats., shall mean cash on hand, liquid investments, or any asset, the conversion of which to cash would not mean substantial loss to the veteran. The funds of a veteran include all funds owned by the veteran and his wife, individually and jointly. A veteran is required to apply his funds in acquiring a home prior to obtaining a loan from the department, but the department may permit a veteran to retain that part of such funds as may in its determination be necessary and reasonable for expenses directly incidental to acquiring and occupying a home.

(2) **MINIMUM CONTRIBUTION.** A veteran must contribute or have contributed funds or assets in an amount or value equal to at least 5% of the total cost of the home he proposes to purchase, construct or improve, and he must be financially able with the aid of a department housing loan to complete the purchase, improvement or construction of such home. If such contribution has been or is to be acquired by borrowing, his application will not be approved.

(3) **ADDITIONAL SECURITY FOR LOAN.** Any real estate a veteran is unable to dispose of may be included in the mortgage to the department as additional security, and the veteran will be required to apply the net proceeds from its future sale to reduce the mortgage loan principal balance before release of said real estate from the mortgage.

(4) **GIFTS TO THE VETERAN.** A gift of money or the value of property received by a veteran as a gift may be considered his 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) **CLOSING COSTS AND MOVING EXPENSES.** A veteran must have sufficient funds for closing costs and moving expenses in addition to the funds necessary to consummate the purchase, improvement or construction of his home and such funds may not be borrowed from any source. All closing costs must be paid by the veteran in cash at the time of closing.

(6) **SUBTERFUGE.** If closing costs, financing charges or other expenses usually paid by a buyer in a purchase transaction are included in the purchase price or assumed by the seller, the amount of such costs, charges or expenses so included or assumed will be deemed to be a reduction in the purchase price and will be subtracted from the purchase price and from the veteran's total proposed investment in the property. If the remainder of the veteran's total proposed investment is less than 5% of the adjusted cost of the property, he will be required to increase his investment by the amount of the difference between his reduced investment and 5% of the adjusted cost of the property. The same requirement will apply in construction or improvement applications where such costs or expenses are included in the construction contract or assumed by the contractor or builder.

(7) **INCOME.** "Income", for the purposes of this chapter, shall mean the amount of gross income a veteran is receiving for his regular work together with any income from other sources that may reasonably be expected to continue for the term of the loan.

(a) Part-time and overtime pay, unemployment compensation and the income of a veteran's wife will be considered "income" only when sufficient evidence is submitted by the veteran establishing that such sources of income are regular and dependable.

(b) Pensions and disability compensation will be considered "income" unless temporary in nature.

(c) Only net rental income will be considered "income".

(d) The income shown on his income tax return for the prior year is the "income" of a self-employed veteran or of a veteran who must pay his own job-connected expenses; however, in proper cases, the department may accept a recent profit and loss statement covering a period 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. Depreciation of property used in earning income shall be considered as a business expense in determining "income".

(8) **SHELTER COST.** A veteran's shelter cost shall be his monthly payments of principal, interest on mortgage loans, and 1/12 of annual real estate taxes and fire and extended coverage insurance premiums.

(a) *Over 25%*. An application will be denied where a veteran's shelter cost will be in excess of 25% of his monthly income.

(b) *Less than 20%*. The department will set monthly payments on the department's loan to require a veteran to use not less than 20% of his monthly income for shelter cost, but where it is determined that such payments will create an undue hardship the department may set lower monthly payments. In determining whether an undue hardship would be created, the department may consider such factors as the size of the veteran's family, utility costs, monthly income, continuing medical expenses, and indebtedness incurred for medical or funeral expenses or for other necessitous items.

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

(b) *Wife's debts*. The independent debts of a veteran's wife and joint debts must be included in the veteran's total indebtedness.

(c) *Financial instability*. Where a veteran's record of meeting his financial obligations indicates that he has been unable to satisfactorily manage his family finances, his loan application may be disapproved, unless it is determined that his financial difficulties could not have been avoided by prudent management.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; am. (2), (7) (d), Register, October, 1967, No. 142, eff. 11-1-67.

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

(2) **TWO-BEDROOM HOMES.** An application by a veteran who has 2 or more children of different sexes to purchase a two-bedroom home will not be approved unless the veteran can satisfy the department as to the future adequacy of such home.

(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) **NON-RESIDENTIAL BUILDINGS.** Non-residential buildings which have been converted to housing, such as schoolhouses, cheese factories, fire stations, quonset-type buildings, and chicken houses, will qualify only if it is determined that they are adequate for dwelling purposes as converted and that they can be readily resold.

(5) **MOBILE HOMES.** Mobile homes, whether located on a foundation or not, do not qualify for a housing loan.

(6) **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 he 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.

(7) **RENTAL UNITS.** If building use conforms to that of the area or community, the fact that income from apartments in a multiple unit home is in excess of the income that would be received from the portion occupied by the veteran will not preclude favorable consideration of the loan application.

(8) **BUSINESS PURPOSES.** Where a dwelling is a part of a building also used for business purposes, the portion of the building used for business purposes must be less than 50% of its total area and the business portion must be used by the veteran in carrying on his own business.

(9) **EXCESSIVE LAND VALUE.** The appraised value of a dwelling 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 50% of the total cost of the land, dwelling and other improvements. In the case of application for a loan for the construction or improvement of a dwelling or for the construction of a garage on a farm with farm land and farm buildings, the department 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.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; am. (1), Register, December, 1965, No. 120, eff. 1-1-66; am. (9), Register, October, 1967, No. 142, eff. 11-1-67.

VA 4.07 Primary financing. (1) **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.

(2) **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.

(3) **MAXIMUM PRIMARY FINANCING.** (a) *Definitions.* 1. Maximum primary financing is the maximum loan which lending institutions in the lending area would make to another borrower in the ordinary course of business under the same or similar circumstances, pursuant to applicable laws and regulations.

2. Where a veteran is assuming an existing primary mortgage which equals or exceeds 50% of the cost of the property such loan will be considered maximum primary financing.

3. In an improvement loan application, an existing primary mortgage which equals or exceeds 25% of the appraised valuation of the property after improvements will be considered maximum primary financing.

(b) *Veteran must obtain.* A veteran must obtain maximum primary financing. Where maximum primary financing is not obtained, the veteran must submit explanatory statements from local lending institutions. Such statements shall include the following:

1. The amount of loan applied for by the veteran.
2. The maximum loan they would be willing to make to the veteran.
3. Their reasons for not approving maximum primary financing.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; am. (3)(a)3., Register, August, 1967, No. 140, eff. 9-1-67.

VA 4.08 Appraisals. (1) **GENERAL.** Appraisals must be submitted with all housing loan applications and must be completed on the department's appraisal report form or on a form that contains the same information when completed. Appraisals submitted must include the following statement or words of similar import: "This is the price which this property should sell for on the present market."

(2) **USE OF APPRAISALS.** Appraisals submitted with applications will be used in determining whether the property so appraised will adequately secure the proposed loan by the department, but such appraisals are advisory only and the department may determine the value of the property for its purposes by means of a property inspection by a department representative, by obtaining an appraisal report 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.** Only appraisals made by Veterans Administration approved appraisers or by appraisers who have submitted their qualifications and have been determined by the department to be equally competent will be accepted. The secretary may designate appraisers in any county for the protection of veterans and the department 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, March, 1965, No. 111, eff. 4-1-65; am. (3), Register, October, 1967, No. 142, eff. 11-1-67.

VA 4.09 Regulations on approved loans. (1) **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.

(2) **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.

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

(a) The mortgage note to the department properly executed and of even date with the mortgage.

(b) The mortgage to the department properly executed and recorded.

(c) 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 fire and windstorm 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.

(4) **VETERAN CHARGED.** 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 at his own expense fire and extended coverage insurance or fire and windstorm 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 procure the necessary insurance or title evidence and charge the cost to the veteran.

(5) **RECORDING FEES.** All recording fees incurred in completing the mortgage loan to the department will be paid by the veteran.

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

(7) **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.

(8) **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 in his application, the department's mortgage note may be accelerated and full payment demanded.

(9) **TRANSFER OF POSSESSION.** The department may accelerate its mortgage note and require that its mortgage loan be paid in full

when a veteran transfers physical possession of the premises, and will so provide in the note and mortgage.

(10) **SALE OF PROPERTY.** The department will accelerate its mortgage note and require that its mortgage loan be paid in full when a veteran completes a sale of the principal property mortgaged to the department.

(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 when it is satisfied that the property will provide adequate security for its mortgage.

(a) The veteran must submit evidence of his present income and his 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 his income.

(b) The department may execute a subordination agreement for the application of siding only when it is demonstrated that new siding is necessary to protect the veteran's housing investment and that the property as improved will have a value sufficiently in excess of the total encumbrances to provide adequate security for the department's loan.

(c) Subordination agreements to add garages, family rooms, modernize kitchens and bathrooms or to make other improvements may be entered into if the cost of such improvement is not disproportionate to the value of the home.

(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.

(13) **RELEASE OF SATISFACTION.** The department's satisfaction of mortgage, the mortgage and mortgage note shall not be released for a period of 2 weeks following receipt of final payment, but such instruments shall be released immediately upon receipt of final payment in cash or in the form of a bank draft, bank money order, cashier's check, certified check, or savings and loan or building and loan association check.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; r. (7) (a) and (b), Register, December, 1965, No. 120, eff. 1-1-66; am. (11) intro. par. and (c) and r. (d), Register, October, 1966, No. 130, eff. 11-1-66; r. and recr. (11) intro. par., Register, October, 1967, No. 142, eff. 11-1-67.

VA 4.10 History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; r. Register, December, 1965, No. 120, eff. 1-1-66.