

(14) "Lender" means either an authorized lender or "primary lender" or both.

(15) "Maximum annual income limitation" means that either the annual income of the applicant or the combined annual income of the applicant and co-appliant does not exceed the statutory maximum set forth in s. 45.74(1), Stats.

(16) "Mortgagee" means in the case of a direct 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.

(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 direct home loan.

(25) "Veteran" in the case of a "secondary loan" means either veteran as defined in both s. 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 "direct 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 direct 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.

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 MOBILE HOME COST.** (s. 45.76 (1) (a) 1., Stats.) 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 will 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.

(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.

(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 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.

VA 4.03 General loan policy both programs. (Subch. II of ch. 45, Stats.) (1) **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 delinquent 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.

(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, where the property will provide adequate security for the department home loan and where such a loan will place the applicant's shelter cost indebtedness on a manageable basis within department standards.

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(a) Legal danger exists when the present mortgagee or security interest holder refuses to renew a contract or note whose term was not fully amortized, or when the present mortgagee or security interest holder refuses to accept payments and notice is given that foreclosure proceedings will be instituted or when foreclosure proceedings have been commenced. A copy of the foreclosure notice or threat thereof, expiring land contract, or expiring note and mortgage must be submitted to the department with the application for a housing loan.

(b) Equity in the case of a refinance loan may be based on either current appraised value or current equalized assessed value of the property less amounts required to pay off obligations to be refinanced, whichever the applicant elects. The value used for establishing an applicant's equity shall be the cost of the property for all purposes.

(c) No indebtedness may be refinanced through a department housing loan unless such indebtedness is a home related obligation, or the obligation is secured by a real estate security agreement, a chattel security agreement or land contract or a mortgage or encumbrance against the property.

(d) All money judgments must be cleared by the applicant before the department will approve the application, unless such money judgments represent exclusively home related obligations and can be included in the amount to be refinanced.

(e) The minimum term of a land contract or note and mortgage to be refinanced shall be one year and the department shall not accept an application more than 3 months prior to the expiration of such land contract or note or mortgage.

(f) The department shall not accept an application for a refinance loan from the lender threatening or instituting foreclosure proceedings.

(g) The applicant shall have unborrowed funds to pay all closing costs.

(3) CONSTRUCTION LOANS (a) Direct construction loans shall be made for a term not exceeding 29 years and 4 months, in addition to the construction period not exceeding 8 months.

(b) The applicant cannot act as the applicant's own general contractor nor can the applicant perform any construction tasks other than painting unless the applicant's occupation is directly related to the task involved. The general contractor must warrant any work performed by the applicant.

(c) On direct construction loans payment on principal may be waived for up to 8 months, however, payment of interest and 1/12 of the estimated annual taxes and insurance premiums shall be made monthly. Such interest is to be charged on principal actually disbursed during the previous month based on the number of days of such usage and billed as of the first of the month. On secondary construction loans the first monthly payment will be due 6 months after the date of approval.

(d) Construction contracts must be written on a firm price basis and no cost adjustment clause will be permitted. Change orders in construction contracts may be permitted only upon the approval of the authorized lenders in the case of direct loans or upon the approval of the department in the case of secondary loans. Such change orders may be

approved only if the cost of such change orders when added to the previously determined total cost does not exceed the maximum cost of housing established in s. 45.74(5), Stats., and does not exceed the maximum allowable cost based upon the applicant's income at time of application and, further, only where the applicant deposits the full cost of the change order with the lender.

(e) Construction loan agreements shall be completed on closing of all direct construction loans.

(f) All building permits must be obtained prior to the advance of any direct loan funds by the authorized lender or the disbursement of any secondary loan funds by the primary lender and the lender shall retain copies of all building permits in the loan file. All percolation tests, when required, must be completed prior to the approval of the application.

(g) Signed cost breakdowns, with plans and specifications and construction contract, warranty deed or offer to purchase vacant land, shall be submitted to the department with every construction loan application.

(h) A basement survey shall be required in connection with every construction loan before closing except that the lender may waive a basement survey provided the lender obtains a certificate from the local building inspector or zoning authority that the proposed basement is located within the bounds of the described property in compliance with all applicable side yard and set back requirements and that the basement elevation is proper. If a direct loan is involved, the authorized lender must agree to sign the lenders warranty on the basis of the certificate.

(i) There must be a general contractor who will 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 should be obtained whenever possible.

(j) The lender shall approve the builder's qualifications and credit and require evidence that the builder carries or that the applicant will carry builders risk insurance. Such insurance will be on a standard form 17c or a comparable form and must include fire and extended coverage, vandalism and collapse coverage. If theft coverage is available it is recommended that this coverage be carried also. The policy shall name the builder or mortgagor as the insured with a loss payable clause in favor of the mortgagee. The original policy shall be retained by the lender with a memorandum copy to the mortgagor. The mortgagor shall obtain a general liability policy naming the mortgagor as the insured. This policy shall remain in effect until completion of construction.

(k) In cases involving direct loans, credit reports must be obtained by authorized lenders on the builder (s) and shall be reordered if the previous reports are more than 6 months old.

(l) Certificates of satisfactory completion of each stage of construction completed shall be submitted to and retained by the lender, signed by the builder (s) and mortgagor prior to disbursement of any additional funds. Lender or its agent will inspect completed work prior to any draw and retain a copy of the inspection report on file.

(m) Lien waivers must be obtained. If any question arises concerning the adequacy of the lien waivers, such waivers shall be cleared through a title company.

(n) All down payment monies received by any of the parties to the construction transaction shall be deposited with the lender and such amounts as are necessary for closing shall be disbursed at closing. Such monies not disbursed at closing will be retained by the lender in an escrow account until the next draw is requested by the builder. No housing loan proceeds will be disbursed until all of the down payment monies have been fully expended. Advances prior to completion may equal 80% of the cost of completed construction unless the cost breakdown shows profit as a separate entry in which case 100% of the cost of completed construction may be disbursed, but such disbursement shall not exceed 75% of the total committed direct loan funds, or in the case of secondary loans, committed primary lender and secondary loan funds, until after final inspection. Funds remaining after each and every draw shall be sufficient to complete the construction. Such advances shall be made on construction completed and in place, and inspected by the lender or agent using VA/FHA guidelines. Such advances will take place:

1. Upon purchase of the lot, if not already owned by the mortgagor;
2. Upon completion of the footings and foundation;
3. When the roof is on, the house is enclosed, and all other work is roughed in to include electrical, plumbing, heating and carpentry including windows and doors; and
4. After final inspection.

(o) Payment for work which cannot be completed for acceptable reasons, but does not affect occupancy of the dwelling, shall not be made until completion of such work. At the discretion of the authorized lender, direct loan funds may be escrowed for uncompleted construction provided that:

1. Escrows will only be allowed when the uncompleted work was the result of unavoidable delays and such work does not affect occupancy;
2. The escrowed amount is not less than twice the cost of the completion of such work including all labor and materials;
3. The escrowed amount does not exceed \$4,000 in any case. Upon inspection of the completed work by the authorized lender or agent the escrowed funds may be disbursed. Interest must be paid by the mortgagor from date of disbursement of direct funds by the department on funds placed in escrow under this paragraph.

(p) Landscaping is not required, other than rough grading and backfilling.

(q) Painting of the exterior of the housing accommodation and garage if not pre-finished, and at least one coat of finish on the interior wood-work, kitchen and bathroom walls is required. A finished product, such as hardwood properly sealed, tile or carpeting, on all floors is required. Access walks and at least gravel driveways must be completed.

(r) In direct loan applications "work credits" and "sweat equity" shall only be allowed after the applicant evidences that the downpayment is unborrowed funds, and the applicant has adequate funds for

closing and moving expenses. The direct loan shall be the total cost of the construction less the downpayment. The "work credits" and "sweat equity" shall be deducted from the loan principal amount after the construction has been completed. An authorized lender may, however, at its discretion, waive firm price contracts for labor for required painting provided that:

1. The authorized lender obtains an agreement from the general contractor stating that should painting become necessary, the contractor will do such painting at no expense to the mortgagor, authorized lender or the department;

2. The contract and supporting documents include a firm price for all painting materials required; and

3. The authorized lender and general contractor agree not to authorize occupancy by the mortgagor until the required painting and other "sweat equity" tasks are completed.

(s) Plans and specifications for any unusual type of construction should be submitted to the department prior to loan processing by the lender.

(4) PURCHASE LOANS FOR A HOUSING ACCOMMODATION TO BE CONSTRUCTED. (a) A purchase loan for a housing accommodation and if applicable a garage to be constructed may be made for a term not exceeding 360 months.

(b) The loan documents shall be submitted to the department as an application for purchase of a completed housing accommodation and, if applicable, a garage.

(c) The housing accommodation and garage must be fully constructed not more than 8 months from the date of commitment.

(d) A single payment construction contract for a complete, finished, firm price, warranted housing accommodation shall be submitted in all cases, together with either:

1. An offer to purchase the land on which the housing accommodation is to be constructed if owned by the builder or a third party; or

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.

(5) CONDOMINIUM LOANS (a) No condominium project shall be approved by the department unless a copy of the recorded declaration and any amendments thereto and a copy of the by-laws and articles of incorporation are on file with the department and have been accepted as complying with the department's requirements.

(b) Professional management must be provided for if the declaration was recorded after January 1, 1975. (Professional management means: a real estate management firm contracted for by the developer or the homeowner's association to manage the condominium project.)

(c) The condominium documents shall provide assurance that the unit holder's interest in common areas and facilities (as defined in s. 703.02 (6), Stats.) will not be diminished in any manner based upon the maximum number of units to be built without the consent of the unit owners and mortgagees.

(d) The declaration or by-laws must provide for the orderly transfer of the ownership and management of the condominium common elements after the sale of 51% of the units in the current phase but in no event more than 2 years from the date of the declaration.

(e) Payment of unit owner's share of the common expenses must be made monthly and will constitute part of the mortgagor's anticipated annual shelter cost. Evidence of such payment shall be submitted to the lender on an annual basis.

(6) Second applications (a) Favorable consideration may be given to an applicant's second application for a housing loan from the department or to an applicant's request for the issuance of a certificate of eligibility in cases where the applicant has previously had a housing loan from the department if the applicant invests sufficient net proceeds from the sale of such property in the new property which the applicant intends to acquire as provided in par. (b) and if the applicant's previous property was sold because at the time of the sale of the previous property such property was:

1. Located more than a reasonable distance from the applicant's principal place of employment;
2. Unacceptable for occupancy by the applicant for medical reasons as substantiated by medical evidence;
3. Acquired from the applicant under eminent domain proceedings;

4. Sold as a result of the applicant's divorce;
5. Incapable of being occupied by the applicant as his residence because the applicant was required as a condition of employment to reside in a municipality other than the one in which such property was located;
6. Inadequate because it had an insufficient number of bedrooms for the applicant and applicant's family as a result of an increase in the size of the applicant's family since the housing loan was made thereon; or
7. Unacceptable for occupancy by the applicant and the applicant's family for exceptional reasons which are deemed adequate by the secretary.

(b) The applicant shall invest all net proceeds, except as provided below, from the sale of such property toward the downpayment on the new property which the applicant intends to acquire. The department may permit the applicant to retain funds in an amount not exceeding the asset maximum set forth in s. 45.74 (4), Stats., and, to pay from such net proceeds, obligations incurred for closing costs, including title insurance or abstract extension and moving expenses or obligations incurred during or after the life of the previous mortgage for medical, hospital or funeral expenses or approve a housing loan where the applicant has paid such expenses from the net proceeds prior to application.

(c) A sale of property on which the department had a housing loan which occurred more than a year prior to the date of application for a certificate of eligibility or a secondary loan will not be subject to the provisions of pars. (a) and (b).

(d) No applicant may have both a secondary loan and a direct loan or two direct loans from the department at the same time and no direct loan proceeds shall be utilized to repay any balances owing the department on secondary loans or other department loans.

(e) Where an applicant applying for a certificate of eligibility is still obligated to the department on either a secondary loan or another direct loan and such applicant is otherwise qualified for such certificate, a conditional certificate of eligibility will be prepared authorizing application for a direct loan, subject to the requirement that the property on which such existing secondary loan or direct loan was made will be sold and such loan fully paid prior to or at the time of closing of the direct loan applied for and that funds, including funds to be realized from the net proceeds of the sale of the home on which the existing loan was made, will be applied as required by s. 45.74 (4), Stats., and par. (b).

(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, unless the cost of such a survey would be excessive (more than \$750) and there is little question as to the location of the improvements within the perimeter. In such 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, chemical toilets or mound type septic systems.

(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 paragraph (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 H 62.20 (9) (a) 2.a., 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 VA 4.05 (8), Wis. Adm. Code, 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 his 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. renun.

(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.

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 s. 45.74 (5), 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. (Subch. II of ch. 45, Stats.) (1) **FUNDS.** (a) Includes cash on hand liquid investments, and except as provided in paragraph (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 settler 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 s. 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 will 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. 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 NON-RESIDENTIAL REAL ESTATE.** (a) The applicant shall sell such real estate or provide the department with a copy of the warranty deed, previous year's tax bill and list of encumbrances against the other owned real estate. The legal description of the other owned real estate will then be included in the mortgage executed to the department as parcel II and prefaced by the following statement: "This mortgage encumbers only such interest as the mortgagor may have in the following described real estate." The value of other owned real estate so mortgaged as additional security shall not be considered funds. The mortgage must then be recorded in the county where such other owned real estate is located.