

Chapter VA 4

HOUSING LOANS

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History: Chapter VA 4 as it existed on October 31, 1974 was repealed and a new chapter VA 4 was created, Register, October, 1974, No. 226, effective November 1, 1974.

VA 4.01 Definitions (Subch. II of ch. 45, Stats.) In this chapter the terms defined in s. 45.71, Stats., shall have the meanings designated therein and such statutory definitions are incorporated herein by reference and the following terms shall have the designated meanings:

(1) "Adequate housing" means a structurally sound dwelling ready for immediate occupancy and sufficient in size to accommodate the applicant and the applicant's dependents, with necessary electrical (above 30 amperes), heating and sanitary facilities in good condition of repair. In order to be considered adequate housing, the dwelling must have sufficient bedrooms to provide sleeping accommodations segregated by sex for the applicant's unmarried dependents, except that dependents less than 6 years old need not have segregated sleeping accommodations if the dwelling provides space for necessary expansion or if older dependents will be leaving the dwelling permanently in the near future in order for the dwelling to be considered adequate housing.

(2) "Annual income" means "current monthly income" multiplied by 12.

(3) "Anticipated annual shelter payment" means the total annual payments anticipated for the following, as determined by the authorized lender or department on the basis of the loan applied for:

(a) Real estate taxes on the housing accommodation to be mortgaged. On previously untaxed properties, estimated real estate taxes shall be based upon the current assessed value times the prior year's mill rate for state, county, municipal and school taxes;

(b) Hazard insurance premium (including flood insurance, if required) for coverage required;

(c) Required payment on principal and interest on all loans which will be secured by encumbrances against the housing accommodation after the closing of the housing loan;

(d) Unit owner's share of common expenses (applies only to condominiums and planned unit developments);

(e) Holding tank monthly pumping fees annualized when such systems are permissible under section VA 4.03 Wis. Adm. Code; and

(f) Monthly parking fees (applies only to mobile homes not located on land owned by the applicant).

(4) "Applicant" means a person who applies for a direct loan certificate of eligibility or a veteran who applies for a housing loan under subch. II of ch. 45, Stats. The term "applicant" also means the applicant and co-applicant, if there is a co-applicant, unless the context clearly limits the meaning to only the applicant.

(5) "Basement survey" means the placement of stakes delineating the perimeter by survey of the proposed basement within the lot upon which an applicant's home will be constructed. A basement constructed pursuant to such a survey must be in compliance with sideyard, setback and other applicable requirements.

(6) "Co-applicant" means any person who is eligible to apply and does apply with an applicant for a housing loan.

(7) "Current monthly income" means an applicant's current monthly adjusted gross income at the time of application, or in appropriate cases 1/12 of an applicant's annual income computed on the basis of the applicant's current adjusted gross income at the time of application, except in the case of a self-employed applicant, an applicant who is a construction or seasonal employee, or an applicant who must pay substantial job connected expenses where current monthly income shall be computed on the basis provided in section VA 4.05 (5) (a), Wis. Adm. Code, together with such other income as the department determines to be regular and dependable or includable as income.

(8) "Debt servicing payments" means 1/12 of an applicant's "anticipated annual shelter payment" and monthly repayments required on installment debts with thirteen or more remaining monthly payments due at the time of application for a housing loan. Debt servicing payments shall include 10% of the applicant's total indebtedness on which regular monthly payments are not required except when the applicant has sufficient assets to repay the indebtedness in full and agrees to submit evidence of full payment of the indebtedness prior to the closing of the transaction involving the housing loan.

(9) "Direct loan" means a housing loan under s. 45.79, Stats.

(10) "Dwelling" means the portion of a building used or to be used by an applicant and co-applicant as their principal place of residence, but not the land appertaining to such a building.

(11) "Farm" means an operating entity to include the applicant's home and such other improvements to the land, and land itself necessary to produce the applicant's primary source of income or when the applicant is otherwise gainfully employed, such supplemental income as may be necessary for the applicant's family needs.

(12) "Housing accomodation" means the building in which the applicant's home is located or to be located or, in the case of condominiums, the applicant's dwelling unit therein, but not the land appertaining thereto.

(13) "Housing loan" or "loan" means either a "direct loan" or a "secondary loan" or both.

(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-applicant 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 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 "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.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; r. and recr. Register, September, 1978, No. 273, eff. 10-1-78; am. (11) and (24), Register, December, 1979, No. 288, eff. 1-1-80.

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. The provisions of this paragraph and pars. (a), (b), (c) and (3), shall not apply to loans for the purpose of refinancing indebtedness incurred by applicants for the consummation of housing transactions where such applicants, after their applications for loans for purposes specified in s.

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 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.

(b) If the applicant's real estate is to be sold, the net proceeds from the sale shall be invested in the property to the extent required by section VA 4.03 (6) (b), Wis. Adm. Code and the department shall be provided with a preliminary closing statement on the sale of the applicant's real estate. This preliminary closing statement and an offer to purchase shall verify the net proceeds due the applicant upon sale. In any event, the sale of the existing real estate must close before the department housing loan is closed.

(c) In the event the applicant does not wish to sell non-residential real estate or to include such real estate in the mortgage, such real estate must be listed at the equalized assessed value until sold or for at least 90 days. The net proceeds of the sale, above the maximum retained assets, must then be applied to the proposed improvement, purchase, refinance or construction. If such real estate cannot be sold, it shall be mortgaged for at least $\frac{2}{3}$ of equalized assessed valuation, and the proceeds of such mortgage shall be defined as funds. The monthly payment on this mort-

gage shall not be considered in shelter cost ratio, debt service payments, or total debt payments computations.

(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 and shall require the applicant to assign the applicants vendor's interest in land contract to the department if such interest is funds for the purpose of obtaining payment to the department or escrow for improvements to the principle residence of the net proceeds to be realized by the applicant at the time of the payment of the land contract balance.

(e) Release of all or any portion of other owned real estate included in direct loan mortgages may be made pursuant to section VA 4.08 (9), Wis. Adm. Code and releases of such real estate from secondary loan mortgages may be made pursuant to section VA 4.09 (12), Wis. Adm. Code.

(f) Any non-residential real estate owned by an applicant which the applicant proposes to retain and which borders on the property on which the applicant has applied for a housing loan shall be included as a part of such property, for all purposes, including the establishment of the cost of such property.

(g) Accepted offers to purchase for the sale of real estate shall not constitute the sale of such real estate for the purposes of this section and section VA 4.03 (4), Wis. Adm. Code. Actual closing of the sale of such real estate must take place prior to the closing of the department housing loan mortgage.

(4) OTHER OWNED RESIDENTIAL REAL ESTATE. (a) If the applicant owns residential real estate on date of application, regardless of location, such real estate must be sold prior to closing. A land contract vendee's interest in residential real estate shall be deemed to be ownership of such real estate for the purposes of this paragraph. Residential real estate shall not include vacant lots or seasonal cottages.

(b) If the applicant owns residential real estate on the date of application, regardless of the location, such real estate must be sold prior to closing and the net proceeds from the sale of the applicant's real estate shall be invested in the property to the extent required by section VA 4.03 (6) (b), Wis. Adm. Code and the department shall be provided with the accepted offer to purchase and a preliminary closing statement on the sale of the applicant's real estate. This preliminary closing statement and an offer to purchase shall verify the net proceeds due the applicant upon sale. In any event, the sale of the existing real estate must close before the housing loan is closed.

(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. Construction or seasonal employees 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) is the adjusted gross income. The IRA adjustment to income 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 refinancing 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.

(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 may be considered as "income" to the extent that they are likely to be received consistently. Applicants must be advised that income from such sources need not be revealed if they do not desire to have such income considered in conjunction with their applications for housing loans.

(j) The income of an applicant who is required by court order to make alimony or child support payments may, upon the applicant's request, be reduced by the amount of such required payments for the purposes of computing the applicant's income for the purposes of s. 45.74 (5), Stats., and the applicant's shelter cost, debt servicing payments and total debt payments, and only the remaining income shall be considered in making such computations, but not for the purpose of qualifying an applicant whose income exceeds the maximum annual income limitation.

(k) The income of the co-applicant and part-time income shall be evaluated by the same standards as the income of an applicant and will be considered "income" only if verified.

(1) Where "income" exceeds the maximum annual income limitation the application will be denied.

(6) **GIFTS.** Money or the value of real estate received by an applicant as a gift shall be considered the applicant's own funds. However, to be considered funds of the applicant, the donor shall certify that the gift is outright and irrevocable and no repayment is required. All gifts that have been transferred prior to or at the time of closing shall be verified in writing. The donor may not be party to or have an interest in the real estate or construction transaction involving the home proposed for purchase, construction or refinance. The value of real estate given to an applicant shall be either its assessed value as equalized for state purposes, its appraised value, or the original cost thereof to the donor where the donor has given the applicant all contiguous land acquired by such donor by any single conveyance, whichever is most advantageous to the applicant. The value of such real estate, as elected above, shall be its cost for all purposes.

(7) **PERSONAL PROPERTY.** Any personal property included of value in the offer to purchase a property to be financed with a housing loan must have a value placed upon it by the appraiser and the amount of such value shall be deducted from the sale price. The personal property must be paid for by the applicant from funds which must be in excess of the minimum down payment and closing costs. If there is no value to personal property included in the offer to purchase, the offer must so state. The cost of any personal property included in a construction or improvement contract shall be paid by the veteran borrower and such payment shall not constitute part of the applicant's equity in the property. (Carpeting, built-ins, fixtures, drapes or other items permanently affixed to the structure shall not be considered personal property.)

(8) **DEBT SERVICING PAYMENTS, SHELTER COST RATIO, AND TOTAL DEBT PAYMENTS.** Where an applicant's debt servicing payments exceed 35% of current monthly income or where an applicant's shelter cost ratio exceeds 25%, the application will be denied unless the applicant has a history of excellent debt service combined with either a demonstrated ability to accumulate savings as evidenced by a larger than normal down payment of at least 7½% or such other factors as the department finds to be relevant to the applicant's ability and motivation to make higher than normal debt servicing or shelter cost payments. In the recommendation concerning the application the lender should cite factors which evidence the applicant's ability to make higher than normal shelter cost payments or debt servicing payments. Where total debt payments are excessive the application will be denied.

(9) **EMPLOYMENT.** The applicant must have stable employment and must evidence sufficient income and financial stability to assure repayment according to the terms of the loan. In the case of a direct loan, income and employment that is not maintained at closing as stated on the application should result in the authorized lender cancelling the loan commitment. Employment must be verified for at least the past 2 years, or since separation from the U.S. armed forces, whichever is less. If there has been more than one employer in the past 2 years, additional verifications must be completed by each employer. Any increase in income anticipated, if it is to be used, shall be verified by the employer and shall be effective prior to the date of the first payment.

(10) **LIABILITIES.** The department and authorized lender shall analyze the stated purposes for which an applicant's debts were incurred, the total amount of the indebtedness in relation to income, and the applicant's record of meeting past financial obligations in determining whether the level of indebtedness is excessive. The purpose for which all debts were incurred shall be stated on the application. If the department or authorized lender determines the accumulated indebtedness indicates financial instability or the amount of monthly payments will impair the applicant's ability to make shelter cost payments and meet ordinary living expenses, the loan application shall be denied. Accumulation of net worth may be considered an indication of creditworthiness.

(11) **INCREASE IN HOUSING OBLIGATIONS.** Where an applicant whose total housing obligations on a property which the applicant proposes to purchase, construct, improve or refinance with the assistance of a housing loan will exceed the rental or housing obligations which the applicant is required to pay for the housing accommodation being occupied on the date of application, and where such applicant has been operating at a breakeven point or less as evidenced by increasing debts, the application will be approved only if the applicant has a history of acceptable credit practices.

(12) **BAD CREDIT PRACTICES.** Applications from applicants who have failed to pay their obligations in a timely manner shall be denied unless such applications have strong offsetting characteristics or unless the financial difficulties responsible for the applicant's inability to pay their obligations in a timely manner could not have been avoided by prudent management.

(13) **BANKRUPTCY, JUDGMENTS, ETC.** Applications from applicants currently under federal chapter 13 plans will not be accepted unless the applicants are in the final year of their plans, have satisfactory payment records under their plans and have made all required payments under their plans. Any application from an applicant who has been subject to bankruptcy proceedings or to liens and judgments within the 5 years immediately preceding the application, shall be examined carefully and the circumstances fully analyzed to determine whether the applicant is creditworthy and has demonstrated financial recovery. A copy of the petition, schedules of debts and discharge in bankruptcy along with the applicant's signed statement of the reason for such bankruptcy must be submitted with the housing loan application. In the absence of an acceptable reason for the bankruptcy, liens or judgments, there must be a strong history of recovery and good present financial standing. If the applicant's credit is to be considered favorable, liens and judgments must be satisfied prior to the time of closing of a housing loan and alimony and support payments must be current as of the date of approval of the housing loan application by the department. Evidence from the clerk of courts that the applicant is current or, if the applicant is in arrears, that regular payments have been made every month for not less than 12 months immediately preceding the loan application date and that such applicant has made arrangements which the department deems satisfactory for payment or deferment of the obligation to repay the arrearage owing shall be submitted to the department in the case of support, alimony and separate maintenance payments.

(14) **WORKING CAPITAL.** In the case of a self-employed applicant operating a business, the cash flow shall be considered and if the department determines that the applicant will have insufficient cash or working cap-

ital remaining to fulfill the applicant's obligations, the loan shall not be approved.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (5) (d) and r. (5) (c), eff. 7-29-75; am. (5) (e) and (7) (b), r. and recr. (5) (c) and (d), Register, July, 1976, No. 247, eff. 8-1-76; r. and recr. Register, September, 1978, No. 273, eff. 10-1-78; am. (5) (j), (6) and (13), Register, December, 1979, No. 288, eff. 1-1-80.

VA 4.06 Property qualifications. (s. 45.76 (3), Stats.) (1) **GENERAL.** A housing loan will be approved only on a home which is determined to be adequate housing which is located or, in the case of a mobile home, which is to be located in Wisconsin, and the total cost of which does not exceed its market value. The home must be occupied by the applicant as the applicant's and dependent's residence and may not be more than 50 miles from the applicant's principal place of employment provided, however, that exceptions may be made by the department to the mileage limitation if the applicant has no principal place of employment or is transferred routinely by the applicant's employer, or hiring agent, on a job-to-job basis or where travel beyond the 50 mile limit is in conformity with local conditions and customs.

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

(3) **SUB-STANDARD HOUSING ACCOMMODATIONS.** Applications for housing loans to purchase substandard housing accommodations, temporary dwellings, or housing accommodation not meeting minimum requirements of health and sanitation, such as garages, basements, or cottages inadequately converted for permanent occupancy, will not be approved.

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

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

(6) **PROPERTY INVOLVING BUSINESS PREMISES.** (s. 45.70, Stats.) (a) Housing loans on property involving a business premises may be approved if the structure is designed principally for residential use and the applicant will reside in it. However 50% or more of the total square footage shall be used for resident purposes and occupied by the applicant and the appraisal should show the percentage.