



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-008

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the second paragraph of the analysis, the “is” on line one should be changed to “are.”

b. This rule repeals six current rule provisions: ss. VA 4.14 (3) (g), 12.02 (7), (15), and (17), and 12.04 (1) and (2). The analysis mentions that current rule provisions addressing the adjustment of interest rates and loan amounts in the personal loan program will be repealed to reflect the new authority provided in 2003 Wisconsin Act 83. At least one of the repealed provisions does not pertain to these adjustments. The analysis should contain a more detailed explanation of the provisions being repealed and, where relevant, the Act 83 provisions that make those repeals appropriate or necessary.

c. Section VA 4.14 (2) (a) defines “date of application” as the date a complete loan application with supporting documents is *accepted* by the department (emphasis added). What is meant by “accepted”? Should it be changed to “received”?

d. In ss. VA 4.14 (3) (b) and 12.02 (2), “log-on” should replace “log on.”

e. In the treatment clause to and text of SECTION 8, the “14.04” should read “4.14.”

f. In s. VA 4.14 (4) (d), the “must” on line 6 should be changed to “shall.”

g. In s. VA 4.14 (4) (e), the stricken “or” on line 2 should appear before the underscored comma. Also, an underscored comma should be inserted after “attorney” on that line.

h. In s. VA 4.14 (4) (f), who verifies that the equity is greater than 10%? The department? This point could be clarified by restating the language in the active voice. The same comment pertains to s. VA 12.02 (13).

i. In s. VA 12.02 (6), what is meant by “strong off-setting characteristics”?

j. In s. VA 12.02 (16), the citations on the last line could read “s. 45.356 (2) and (8), Stats.” Also, this provision increases from \$30,000 to \$50,000 the maximum indebtedness of eligible veterans married to each other under the personal loan program or a combination of programs, subject to the indebtedness limitation for an individual veteran delineated in s. 45.356 (2) and (8), Stats. Section 45.356 (2), Stats., sets the individual limitation at \$25,000 or a lesser amount set by rule. With the repeal of s. VA 12.02 (7), which sets forth that lesser amount, where will the reader look to determine the maximum amount of a personal loan?

k. The following comments pertain to s. VA 12.03 (3), which creates new language relating to securing veterans personal loans with tribal land or a tribal guarantee:

1. It is suggested that “tribe” be defined for purposes of this subsection as “a federally recognized American Indian tribe or band in this state.”
2. It should be clarified to whom this provision applies. Is it applicable to any American Indian person living on tribal land or only to those who are members of the tribe on whose lands the person resides? Is it applicable to a non-American Indian person residing on tribal lands?
3. Does the “tribal land” that may be offered as loan security under this provision include land held in trust by the federal government for a tribe or for an individual American Indian person or is it only land held in fee simple by a tribe or an individual? It is possible that applying the provision to trust land (either held for the tribe or for an individual) would violate the federal prohibition against alienating trust land unless permitted under federal law. See, for example, 25 U.S.C. ss. 464 and 483a and 25 C.F.R. 152.22.
4. Are there common elements of a “mutually acceptable security agreement” that should be set forth in the rule? Also, it would be helpful to define or explain what constitutes a “tribal guarantee.” Note that the word “guarantee” on line 5 contains a typographical error.

l. The repeal of s. VA 12.04 (1) and (2) should be done in a single SECTION which states: “VA 12.04 is repealed.”

m. The wording of the first sentence of s. VA 12.05 (2) could be rewritten as follows:

If an appraisal is being used to determine value, an appraiser who is selected by the applicant and licensed by the Wisconsin department of regulation and licensing shall perform the appraisal and complete the appraisal form prescribed by the department.

Also, a note should be added following this provision indicating where the form may be obtained.