

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

2. A copy of the recorded 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 or a reduced contract-to-construct price to the applicant, but the amount of the loan applied for shall not include the value of the work credit agreed to so as to result in payment to the applicant for the work credit. No part of the required downpayment can be made up of the value of the work credit. No payment for work credit shall be made to the applicant by either the lender or builder.

(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. Final inspection shall be made by an appropriate inspector prior to closing.

(j) A single disbursement by the department will be made only upon compliance with all of the foregoing requirements.

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

(b) If an applicant failed to repay a department loan in a timely manner or quitclaimed real estate back to the department in lieu of foreclosure within the 5 years preceding application for a second certificate of eligibility, the applicant shall be ineligible to receive a second certificate of eligibility or a primary housing loan unless the applicant can establish strong offsetting characteristics. The department may consider whether or not the department incurred a loss as a result of the quitclaim and whether a loss of employment due to no fault of the applicant or other unavoidable circumstances caused the underlying repayment problem.

(7) **SURVEY.** Where the legal description of the property is in metes and bounds, a survey, or copy of a survey, clearly delineating a single perimeter of the entire plot and location of any existing or proposed improvements shall be required in connection with a primary loan, unless the cost of such a survey would be more than \$500 and it is determined by the department that there is little question as to the location of the improve-

ments within the perimeter. In these cases a surveyor's or professional engineer's letter will be required.

(8) **FLOOD PLAIN.** In purchase loan applications, if the subject property is in a 100 year flood plain, the offer to purchase shall contain a statement by the broker or seller to that effect. If it is in a 100 year flood plain, flood insurance shall be obtained on the property and shall be available at the time of closing. The property shall be deemed to be in a 100 year flood plain only if the buildings thereon are in the 100 year flood plain.

(9) **WELLS AND SEPTIC SYSTEMS.** (a) If the property the applicant wishes to purchase, construct or improve involves a well, community water supply which is 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 which is not municipally operated, must be submitted to the department with the application.

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

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

1. Has entered into a contract with a properly licensed sewage hauling contractor; and

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

(10) **SEPARATE HOUSING ACCOMMODATIONS.** 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.

(12) **ESCROW FUNDS.** (a) Payment for work which cannot be completed for reasons acceptable to the authorized lender, but does not affect occupancy of the housing accommodation, shall not be made until completion of such work.

(b) At the discretion of the authorized lender, primary mortgage funds may be escrowed for uncompleted work, provided that:

1. The uncompleted work is the result of unavoidable circumstances and the work does not affect occupancy;

2. The escrowed amount is not less than twice the cost of the completion of the work including all labor and materials;

3. The escrowed amount is not disbursed until the authorized lender or agent has inspected and approved the completed work.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (5), eff. 2-21-74; emerg. am. (3), eff. 5-1-75; emerg. am. (3), eff. 1-30-76; am. (2), Register, July, 1976, No. 247, eff. 8-1-76; r. and recr. Register, September, 1978, No. 273, eff. 10-1-78; emerg. am. (2) (intro.), eff. 11-11-78; emerg. renum. (9) to be (9) (a) and (b), cr. (9) (c), eff. 11-24-78, renum. (9) to be (9) (a) and (b), cr. (9) (c), Register, February, 1979, eff. 3-1-79; am. (2) (intro.), Register, June, 1979, No. 282, eff. 7-1-79; am. (5) (b), (c) and (d) and (6) (d), Register, December, 1979, No. 288, eff. 1-1-80; am. (5) (a) and (9) (b), r. (5) (d), Register, February, 1981, No. 302, eff. 3-1-81; r. (5), am. (7), Register, January 1984, No. 337, eff. 2-1-84; correction in (9) (c) (intro.) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1986, No. 364; am. (3) (a), (c), (h), (k), (n) (intro.), (o) (intro.), and 3., (r) (intro), and (7), r. and recr. (6), Register, February, 1989, No. 398, eff. 3-1-89; am. (3) (d) to (f), Register, January, 1990, No. 409, eff. 3-1-90; correction in (9) (c) 2. made under s. 13.93 (2m) (b) 5, Stats., Register, January, 1990, No. 409; am. (1) and (6) (b), Register, September, 1990, No. 417, eff. 10-1-90; am. (1), (3) (a) to (f), (h), (j), (k), (n) (intro.), (q), (r) (intro.) and 3., (4) (a), (d) 1. and 2., (e), (g), (i) and (j), (6) (a) and (b), (7), (8), (9) (a) and (c) (intro.) and 1. and (11), r. and recr. (2) and (3) (g), r. (3) (o), cr. (12), Register, June, 1992, No. 438, eff. 7-1-92.

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

(a) Includes cash on hand, liquid investments, and except as provided in par. (b), any asset the conversion of which to cash would not result in substantial loss. Stocks and bonds, including U.S. Savings Bonds, are valued at market price as of the date of application.

(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 that 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 any closing costs and moving expenses as the applicant may be required to pay has been or is to be acquired by borrowing, the application shall not be approved. The applicant must be financially able with the aid of the housing loan applied for to complete the contemplated purchase, construction or improvement and to pay all required closing and moving expenses. When the sales

price, construction cost or total cost exceeds the value pursuant to s. VA 4.07 (2), the applicant's contribution required under ss. 45.74 (5) and 45.77, Stats., will be increased by the excess. Work credits, rent credits or other reductions of the price of the property being acquired by an applicant may be allowed but only after the applicant evidences that a 5% down payment has been made from such applicant's own funds. In the case of a loan under s. 45.76 (1) (c), Stats., the applicant shall have at least 10% equity in the property upon completion of the improvements. Mortgage funds shall not be utilized to pay closing costs. Applicants shall submit verifications of all deposits in excess of \$100 which will constitute a portion of their contribution.

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

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

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

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

(c) One-half of gross rental income will be considered income if services are furnished to tenants and $\frac{2}{3}$ of gross rental income will be considered income if no services are furnished. Income from residential property other than the subject property shall be the net rent. Income shall be applied in full in the case of a sole applicant. 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 housing accommodation proposed for purchase, construction or improvement 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.

more than 10% or the department's determination of value, the housing loan application will not be approved.

(3) **APPRAISERS.** The secretary may designate appraisers in any county for the protection of veterans and the department. The department shall maintain and publish from time to time a list of appraisers whose appraisals will be accepted by the department.

(4) **DISINTEREST.** The appraiser shall not have an interest in the property to be purchased or constructed, or be employed by the lender, except under exceptional circumstances with prior approval of the department.

(5) **ADDRESSES.** The appraisal must be addressed jointly to the applicant, lender and the department on the form itself or in a letter accompanying the appraisal, clearly identifying the subject property and a. A copy of the appraisal must be given to the applicant before closing.

(6) **MISCELLANEOUS REQUIREMENTS.** (a) The appraiser shall consider and comment upon encroachments, easements, code violations or variances.

(b) The appraisal shall contain a statement indicating whether or not the subject property is in a 100 year flood plain. Construction loans in a flood plain shall not be approved unless the plans and specifications comply with the requirements of ch. NR 116, Wis. Adm. Code. The appraisal shall state whether or not they comply with such requirements.

(c) Condominium appraisals must be submitted on Form FHLMC #465.

(d) The appraiser shall state the previous year's property taxes on existing properties or the estimated property taxes on new or proposed construction properties.

(e) If the property has rental units, the appraisal shall state the estimated fair market rental of the rental units.

(f) The appraiser may evaluate personal property if personal property of value is included in the property to be purchased or constructed.

(7) **ALTERNATE VALUE ESTABLISHMENT.** In the case of an application for a loan under s. 45.76 (1) (c), Stats., the department may accept the current equalized assessed value or fair market value as stated on the last year's property tax statement plus one-half of the cost of the proposed improvements as the cost and value of the residence for all purposes.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; am. (2), cr. (4), (5) and (6), Register, September, 1978, No. 273, eff. 10-1-78; am. (6) (f), Register, December, 1979, No. 288, eff. 1-1-80; am. (1), Register, February, 1989, No. 398, eff. 3-1-89; am. (1), cr. (7), Register, January, 1990, No. 409, eff. 2-1-90; am. (1) to (5), (6) (b), (e) and (f), (7), Register, June, 1992, No. 438, eff. 7-1-92.

VA 4.08 Primary loan program. (1) **CERTIFICATE OF ELIGIBILITY.** (a) *Application.* An application for issuance of a certificate of eligibility for a primary loan shall be submitted to the department through the applicant's county veterans service officer and shall be in the same form as an application for the establishment of eligibility for general benefits from the department but shall contain a specific request for issuance of such certificate.

(b) *Issuance.* A certificate of eligibility shall be issued only to a veteran whose previous transactions with the department would in no way bar approval of another loan by the department.

(c) *Expiration.* If the applicant is a veteran who was a resident of the state of Wisconsin at time of entry into military service, the certificate of eligibility shall be issued for an indefinite period. If the applicant qualifies as a veteran by virtue of being the unremarried spouse of a deceased veteran, the certificate shall become null and void upon the remarriage of the applicant and shall so state upon its face. If the applicant established eligibility for the certificate on the basis of 5 years continuous residence in the state of Wisconsin, it shall expire 6 months from date of issuance.

(d) *Reissue.* If the original certificate has expired or has been lost and the applicant is still an eligible veteran at time of application for reissue, a certificate of eligibility may be reissued.

(2) **CONTRACTS.** Before authorized lenders willing to participate in the mortgage loan program will be allowed to process mortgage loan applications, they shall enter into contracts with the department. Such contracts shall delineate or include reference to the responsibilities of the authorized lenders and other matters set forth in s. 45.79 (5) (a) 1, Stats., shall vest authorized lenders with such powers as the department deems necessary to enable them to properly carry out their servicing responsibilities, shall specify the minimum number of days notice to the department of anticipated closing or first disbursement dates, and shall specifically require such lenders to execute warranties and servicing agreements in connection with primary loans closed by them, the provisions of which warranties and agreements shall be deemed to be incorporated into the contracts.

(3) **APPLICATION.** Application for a primary loan shall be made through the authorized lender of the applicant's choice. The application shall be completed on forms prescribed by the department, and shall include the applicant's certificate of eligibility, a fact-built credit report, appraisal report, employment and deposit verifications and, where appropriate, plans, specifications, a construction contract, a survey, water analysis report, purchase agreement, and such other instruments and exhibits as the authorized lender deems necessary to complete the application.

(4) **DENIAL BY AUTHORIZED LENDER.** If at any time during the course of the development or evaluation of an application for a loan, the authorized lender determines that the application does not meet the requirements set forth in ch. VA 4 and subch. II of ch. 45, Stats., or that it would not approve a loan to the applicant under its normal underwriting standards because the property to be acquired does not meet its minimum or FHLMC minimum property standards, because the applicant does not meet its credit standards, etc., the authorized lender shall inform the applicant that the application is denied and provide reasons for the denial. Applications denied by authorized lenders shall not be forwarded to the department but the department shall be notified promptly of the denials.

(5) **SUBMISSION TO THE DEPARTMENT.** All applications approved by authorized lenders shall be submitted to the department for review and approval or denial. Immediately upon approval of an application the department shall send a commitment letter to the authorized lender, committing the department to transfer funds as provided under s. 45.79

(5) (a) 4, Stats., subject to such funds being made available to the department. Loan commitments will expire 6 months from date of issuance, commitments for the purchase of a housing accommodation to be constructed (PC) will expire 8 months from the date of issuance, and construction (C) loan commitments will expire 12 months from the date of issuance. Commitments may be extended at the discretion of the department.

(6) CONSTRUCTION LOANS. Construction loan funds shall be disbursed on the basis of guidelines set forth in s. VA 4.03 (3), and in compliance with all conditions set forth therein.

(7) WARRANTY. As soon as practicable after the closing of a purchase loan or after the first disbursement of funds in a construction loan the authorized lender will transmit the executed mortgage note, summary of closing worksheet, mortgagor's affidavit and lender's warranty to the department. The lender's warranty shall be made on a form furnished by the department and shall contain information sufficient to enable the department to determine that a valid first lien complying with the requirements of all federal and state laws, exists in favor of the authority or of the department on the mortgaged premises and that the mortgagor has obtained, or in the case of construction loans will obtain, adequate fire and extended coverage insurance on the mortgaged premises. The lender's warranty will also contain such other information as the department requires from time to time.

(8) SERVICING AGREEMENTS. (b) *Fees and expenses.* Servicing agreements shall specifically empower authorized lenders to collect and retain late charges, NSF check charges, partial release fees, and amounts representing expenditures made by them with respect to mortgages executed or properties mortgaged to the department or to such lenders or to the authority for which they have not been reimbursed by the department. Late charges, NSF check charges and partial release fees not collected by such lenders from mortgagors, in addition to required principal, interest and escrow payments, may not be deducted from such payments, charged to the department or the authority or added to mortgage loan balances. Such agreements shall specify the items for which authorized lenders may incur reimbursable expenses and the terms and conditions under which the department will pay such expenses.

(9) PARTIAL RELEASES. An authorized lender may, with the consent of the department, release a portion of the property mortgaged to it or the department or the authority under a primary loan if the release of such property will not unduly diminish the value of the remainder of the property. The authorized lender will require that any funds received by a mortgagor from the sale of property released be applied to reduction of the mortgage loan balance unless it is proposed that a part or all of such funds will be used to improve the property, in which case the authorized lender may approve such use and supervise the disbursement of funds for improvements.

(10) CONSUMER LAWS. Notwithstanding any provisions of the lender's manual, subch. II of ch. 45, Stats., the Wisconsin Administrative Code, or contracts and servicing agreements entered into between the department and the lender, the lender shall comply with all applicable federal statutes and regulations and state statutes and rules. The lender shall defend any suits brought for noncompliance therewith and shall be liable for any damages awarded for such noncompliance.

(11) **SUBORDINATION AGREEMENT.** (a) The department may execute a subordination agreement to permit an increase in a mortgagor's present mortgage which is superior to the department mortgage securing a loan under s. 45.76 (1) (c), Stats., or to replace the present superior mortgage with another in an amount equal to or in excess of the balance owing on the present superior mortgage when it is satisfied that the property will provide adequate security for its mortgage after the proposed increase in the superior mortgage.

(b) The mortgagor shall submit evidence of the mortgagor's present income and of the shelter cost payments under the repayment terms of the proposed new note and mortgage to establish that the new shelter cost payments will not be excessive in view of present income.

(c) The department may execute a subordination agreement to give priority to a proposed superior mortgage if the department's mortgage has been prematurely recorded or in exceptional cases without requiring the evidence set forth in par. (a).

(d) The following criteria shall be met for approval of all subordination agreements:

1. Minimum of 10% equity remaining after subordination.
2. A satisfactory repayment record on department loans.
3. The loan under s. 45.76 (1) (c), Stats., is not currently delinquent.
4. Shelter cost ratio is not excessive based upon the criteria established by the department for the approval of loans under s. 45.76 (1) (c), Stats.

(e) In those cases where the proceeds of the mortgage to which the department is requested to subordinate will be used for any purpose except refinancing an existing first mortgage, including the cost of refinancing, the request will be denied if all of the following apply:

1. The veteran's and spouse's total income is greater than the amount specified in s. 45.74 (1) Stats.
2. The veteran's equity in the home after the subordination is greater than 20% as derived from the current appraised value and the outstanding mortgage principal balance.
3. One-twelfth of the veteran's calculated anticipated annual shelter payment after the subordination would be less than 20% of the veteran's and spouse's combined gross monthly income.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (5), (7), (8) and (9), eff. 7-29-75; am. (5), (7), (8) and (9), cr. (10), Register, July, 1976, No. 247, eff. 8-1-76; am. (3), (4) (b), (8) and (9), Register, September, 1978, No. 273, eff. 10-1-78; am. (1) (c), (5), (7) and (9), Register, April, 1986, No. 364, eff. 5-1-86; am. (2), (3) (d) and (e), (5) (b), (7) and (12), r. (8) (a), Register, February, 1989, No. 398, eff. 3-1-89; am. (1) (b), (2), (4), (5) and (7), r. and rec. (1) (d) and (10), Register, June, 1992, No. 438, eff. 7-1-92; cr. (11), Register, August, 1993, No. 452, eff. 9-1-93.

VA 4.09 Secondary loan program. (8) TITLE EVIDENCE AND PROPERTY INSURANCE. When the department is notified of the cancellation, lapse or non-renewal of a fire and extended coverage, homeowners or fire and windstorm insurance policy insuring a property in which it has a mortgage interest, or when the mortgagor fails to obtain and pay for this insurance in an amount at least equal to appraised value of the improvements at time of application on property mortgaged to the department, Register, August, 1993, No. 452

the mortgagor involved shall be notified that it is such mortgagor's responsibility to obtain and pay for adequate insurance coverage and shall be instructed to submit a memorandum of such insurance coverage to the department and, until such memorandum is received, the department shall insure its interest in such property with the state insurance fund.

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

(10) **REDUCTION IN MONTHLY PAYMENTS.** The terms of the contract between the mortgagor and the department must be complied with by the mortgagor 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 mortgagor when such change is justified by circumstances not in existence at the time the loan was made.

(11) **SUBORDINATION AGREEMENT.** The department may execute a subordination agreement to permit an increase in a mortgagor's present primary mortgage or to replace a present primary mortgage with another in an amount equal to or in excess of the balance owing on the present primary mortgage when it is satisfied that the property will provide adequate security for its mortgage after the proposed increase in the primary mortgage.

(a) The mortgagor must submit evidence of such mortgagor's present income and of the 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 present income.

(b) The department may execute a subordination agreement to give priority to a proposed primary mortgage where the department's mortgage has been prematurely recorded or in exceptional cases without requiring the evidence set forth in par. (a).

(c) The following criteria must be met for approval of all subordination agreements:

1. Minimum of 5% equity remaining after subordination.
2. A satisfactory repayment record on the secondary loan.
3. Loan is not currently delinquent.

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