

Chapter VA 12

CONSUMER LOAN PROGRAM

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Note: Chapter VA 12 was created as an emergency rule effective August 24, 1993.

VA 12.01 Definitions. In this chapter the following terms shall have the designated meanings:

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

(2) "Annual shelter payment" means the total annual payments anticipated for rental of living quarters, or if the applicant is the owner of a homestead, principal and interest payments on all loans against the homestead and real estate taxes and hazard insurance payments on the homestead, and the owner's share of expenses for the common elements, and if the homestead is a mobile home located on land not owned by the applicant shall also include monthly mobile home parking fees and if the applicant's homestead has a septic disposal system which relies upon a holding tank, shall also include holding tank pumping fees.

(3) "Applicant" means a person who applies for a loan under s. 45.356, 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 the applicant only.

(4) "Co-applicant" means either the spouse of a person who is eligible for a loan under s. 45.356, Stats., who chooses to apply with that person for a loan or a person who is eligible for a loan under s. 45.356, Stats., who chooses to apply with another person eligible for a loan under s. 45.356, Stats.

(5) "Consumer loan program loan" means a loan approved under s. 45.356, Stats. and this chapter.

(6) "Current monthly income" means all of the applicant's regular adjusted gross income, converted to a monthly amount.

(7) "Department" means the department of veterans affairs.

(8) "Total debt payments" means 1/12 of an applicant's annual shelter payment and monthly repayments required on debts with 13 or more remaining monthly payments due at the time of application for a Consumer Loan Program loan. Total debt payments shall include 10% of the applicant's total indebtedness on which regular monthly payments are not required except when the applicant has sufficient verified assets to repay the indebtedness.

(9) "Veteran" has the meaning given in s. 45.71 (16) (a), Stats.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.

VA 12.02 General loan policy. (1) **LOAN EXPENSES.** The department may charge loan expenses incurred under the consumer loan program to the applicant. The applicant shall pay credit report expenses to the department before the department begins processing the loan application.

(2) **ELIGIBILITY.** The applicant's eligibility to participate in the program must be established prior to submitting an application for a loan. Applications for eligibility shall be in the same form as required for eligibility for benefits under ch. 45, Stats.

(3) **LOAN APPLICATION.** An application for a loan shall be on forms approved by the department and shall not be accepted for underwriting until payment has been received for credit report expenses and eligibility has been established. A loan application, including required exhibits, credit report and supplements, shall contain such information as is necessary to satisfy the department that the loan proceeds shall be used for a purpose identified in s. 45.356, Stats. and that the requirements of this chapter are met. Applications shall be prepared with the assistance of and submitted through the office of a county veterans service officer.

(4) **INCOME.** An applicant's current monthly income shall be verified. Acceptable verification of current monthly income may include:

(a) Copies of the 2 most recent check stubs from the applicant's employment.

(b) A copy of the prior year's income tax returns except if the applicant's type of employment or method of compensation has changed. Applicants verifying their income by income tax returns shall submit a complete copy of their most recent state and federal tax return including all schedules.

(c) An award letter or copy of a check of unemployment compensation. Unemployment compensation may be considered "income" when it is received for regular or seasonal layoffs from the applicant's current employment.

(d) A professionally prepared profit and loss statement of income to be derived by an applicant from a new business which the applicant is establishing or an existing business the applicant is purchasing.

(e) A profit and loss statement for at least 6 of the 12 months immediately preceding the loan application date of the income of a self employed applicant.

(5) **TERM OF LOAN.** All loans shall be amortized on a monthly basis and the term of the loan shall be at least 1 year and may not exceed 10 years.

(6) **LOAN CHECKS.** (a) Loan checks shall be made payable to the applicant or such other persons as the applicant may direct except where the department determines payment to a specific party is required to ensure compliance with this chapter. Checks shall not be released until all requirements set forth in department commitment letters have been complied with to the satisfaction of the department.

(b) Loan checks returned to the department in cases where the applicant no longer needs the loan funds or desires to have such funds used for the payment of specific creditors or vendors shall be cancelled and, unless the department approves the issuance of new checks at the request of the applicant to other creditors or vendors, the amount of the loan balance shall be reduced by the amount of such checks.

(7) **DELINQUENCY ON DEPARTMENT LOANS.** The department shall not approve a loan to an applicant who is delinquent on another loan from the department.

(8) **LIMITATION ON NUMBER OF LOANS.** An applicant may not have more than one consumer loan program loan at one time. If the applicant is paying off a department loan the department shall not issue a check for payment to the department.

(9) **BAD CREDIT PRACTICES.** Applications from applicants who have failed to pay their obligations in compliance with a repayment agreement or have quitclaimed real estate to a lender in lieu of foreclosure within the last 5 years shall be denied unless such applications show strong off-setting characteristics. The department may consider whether the lender did not incur 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.

(10) **DELINQUENT CHILD SUPPORT AND MAINTENANCE PAYMENTS.** If the applicant's credit is to be considered favorable, child support and maintenance payments must be current as of the date of approval of the consumer loan program loan by the department or the proceeds of the consumer loan program loan shall be used to pay any arrearage. Evidence from the clerk of courts that the applicant is current shall be required. If the applicant is in arrears, then a consumer loan program loan may only be made to that applicant, if the proceeds of the department's loan will bring the account current or if the applicant provides evidence that regular payments have been made every month for not less than 12 months immediately preceding the loan application date and that the applicant has made arrangements which the department deems satisfactory for payment or deferment of the amount in arrears and supporting evidence is submitted to the department.

(11) **INTEREST RATE.** The individual interest rate on a consumer loan program loan shall be fixed for the term of that loan and shall be the lower of the program interest rate in effect on the date an application is accepted for underwriting by the department or the date on which the department approves the loan. The program interest rate shall be determined by the secretary of the department and adjusted periodically to be no less than the prime rate as reported in the Wall Street Journal on any of the 7 days prior to the determination of the program interest rate and no more than 3% above the prime rate.

(12) **TOTAL DEBT PAYMENTS.** Where an applicant's total debt payments exceed 35% of the applicant's current monthly income the application shall be denied unless the applicant has a history of excellent debt service combined with either a demonstrated ability to accumulate savings, at least 15% equity in real estate or such other factors as the department finds to be relevant to the applicant's ability and motivation to make higher total debt payments. The current monthly income and total debt payments of an applicant shall not include the child support or maintenance payments that the applicant is required by court order to make when the payment is current or the applicant has a satisfactory repayment agreement under s. VA 4.05(13). In the recommendation concerning the application, the county veterans service officer should cite factors which evidence the applicant's ability to make higher total debt payments.

(13) **LIABILITIES.** To determine whether the level of indebtedness is excessive, the department may 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. The purpose for which all debts were incurred shall be stated on the application. If the department determines the accumulated indebtedness indicates financial instability or the amount of monthly payments will impair the applicant's ability to make debt service payments and meet ordinary living expenses, the loan application shall be denied. Accumulation of net worth may be considered an indication of creditworthiness.

(14) **BANKRUPTCY, JUDGMENTS AND LIENS.** Applications from applicants currently under federal bankruptcy proceedings shall be denied. 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 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. Liens and judgments must be satisfied prior to the time of approving a loan.

(15) **SUBORDINATION AGREEMENT AND PARTIAL RELEASE OF MORTGAGE.** The department may execute a subordination agreement or release a portion of the property providing security for its mortgage if the mortgagor's equity in the property secured by the mortgage is greater than 10% after the execution of the subordination agreement or partial release.

(16) **CO-APPLICANTS.** The department shall consider the income, assets and debts of a co-applicant.

(17) **CREDIT INFORMATION.** The department may utilize credit reports and other necessary documents which were created within 90 days of receipt of an application by the department in determining whether an applicant qualifies for a consumer loan program loan if those reports or documents accurately reflect the applicant's circumstances on the date that the application is received.

(18) **LOAN CONDITIONS.** The conditions of an approved consumer loan program loan, except for the interest rate, may be changed without submitting a new application. If the applicant desires to change the interest rate after a loan has been approved the loan application must be cancelled and a new application submitted to the department.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.

VA 12.03 Security required. Adequate security as set forth in this section shall be required to insure the repayment of all consumer loan program loans.

(1) **GUARANTORS.** The department may accept as adequate security the guarantee of consumer loan program loan promissory notes by creditworthy and financially acceptable guarantors. There must be at least 1 guarantor on guaranteed consumer loan program loan promissory notes. No employe of the department, no county veterans service officer and no other person in any way connected with the administrative duties of the department or serving in an advisory capacity thereto may be accepted as guarantor unless the applicant is a member of the guarantor's immediate family. Any other Wisconsin resident who is determined by

the department to be financially responsible and whose joining in the obligation provides adequate security may be accepted as a guarantor.

(2) **REAL ESTATE SECURITY.** The department may accept real estate as security if the real estate is located in Wisconsin and the applicant submits evidence of at least 10% equity therein after the consumer loan program loan has been made. Possession of merchantable title to the real estate by the applicant prior to the closing is required. When the title to the property is held in more than one name all parties with an interest in the real estate must sign the mortgage.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.

VA 12.04 Real estate valuation. (1) **GENERAL.** The department may accept the current equalized assessed value or fair market value as stated on the prior year's property tax statement as the value of the property for all purposes.

(2) **APPRAISALS.** If an appraisal is being used to determine the value, an appraiser, selected by the applicant from the department's approved list, must perform the appraisal and complete the appraisal form prescribed by the department. The applicant shall be responsible for payment of the appraisal expenses.

(3) **USE OF APPRAISALS.** If the applicant submits an appraisal the appraisal is advisory only. The department may determine the value of properties for its purposes by means of property inspection by department representatives, by obtaining appraisal reports at its own expense, or by such other means as it may deem practical.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.