

CHAPTER 45

VETERANS' AFFAIRS, BENEFITS AND MEMORIALS

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SUBCHAPTER I

GENERAL PROVISIONS

45.01 G.A.R. memorial hall; space for. The department of administration shall provide suitable space for the purpose of a memorial hall, designated as the G.A.R. memorial hall, dedicated to the men and women of Wisconsin who served in the armed forces of the United States in the civil war of 1861 to 1865 or in any subsequent wars, as enumerated in s. 45.35 (5) (a) to (g), or in Grenada, Lebanon or a Middle East crisis under s. 45.34, and the department of veterans affairs shall operate and conduct such memorial hall.

History: 1983 a. 430; 1987 a. 399; 1989 a. 31.

45.02 Memorial collection. The battle flags of Wisconsin units serving in the nation's wars, and all relics and mementos of such wars donated to or otherwise acquired by the state for display in the G.A.R. memorial hall shall constitute the memorial collection. The department of veterans affairs shall catalog and identify all war relics and mementos of the memorial collection, restore, preserve and safeguard such items, procure additions to such collection, provide proper display equipment, and to so display such collection as to make it instructive and attractive to visitors.

History: 1989 a. 31.

45.04 Veterans memorial grants. (1) DEFINITIONS. In this section:

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

(b) "In-kind contributions" includes but is not limited to donations of appliances, buildings, creations, equipment, fixtures, furniture, materials, real property, structures, supplies and utilities, and work performed in the acquisition of land and construction of a memorial.

(c) "Memorial" means a building, structure, statue or creation used to keep alive the remembrance of a veteran, veterans group or an event related to a veteran and may include land upon which the building, structure, statue or creation is located. "Memorial" does not include a museum.

(d) "Secretary" means the secretary of the department.

(2) **GRANT PROGRAM.** From the appropriation under s. 20.485 (2) (s), the secretary shall award to eligible applicants grants to support the acquisition of land and construction of not more than 2 memorials in this state to honor state veterans who served in the U.S. armed forces. One memorial may be constructed to honor state veterans who served during the Korean conflict, June 27, 1950, to January 31, 1955, and one to honor state veterans who served during the Vietnam era, August 5, 1964, to June 30, 1975.

(3) **NOTICE; APPLICATION PROCESS.** The secretary shall publicize the grant program under this section and the availability of grants. Eligible persons may apply for grants in accordance with the rules promulgated under sub. (6). The secretary shall develop and make available grant application forms.

(4) **COUNCIL OF COMMANDERS REVIEW.** The department shall provide the council of commanders with a copy of each application for a grant. The council may review the applications and submit its recommendations to the department.

(5) **GRANTS.** A grant may not exceed \$300,000 per memorial. No person may receive a grant under this section unless the person is able to provide at least \$1 for land acquisition and construction of the memorial for each \$2 granted by the state. An initial payment of part of the grant, not to exceed \$50,000, may be provided to an eligible person before the person obtains the required matching funds if the department is satisfied that the person is able to obtain those matching funds within a reasonable time. The eligible person's share of

the cost of acquiring the land and constructing the memorial may be in the form of money or in-kind contributions of equivalent value, or both. If the funds granted by the state plus the matching funds obtained by the grantee exceed the cost of land acquisition and construction of the memorial, any excess state grant shall be returned by the grantee to the department. The department shall return any excess state grant to the transportation fund. No grant may be provided unless the person provides evidence of the ability to provide continuing care and maintenance of the memorial. No funds may be granted for administrative expenses of the grantee.

(6) **RULES.** The department shall promulgate rules specifying all of the following:

- (a) The persons eligible for grants.
- (b) The application process.
- (c) The council of commanders review process.
- (d) The costs related to memorial land acquisition and construction that may be covered under a grant.
- (e) The amount of matching funds required of eligible persons.
- (f) The type of in-kind contributions that may be considered as part of the eligible person's matching funds.
- (g) The grantee's responsibilities for the care and maintenance of the memorial after construction is completed.
- (h) The type of evidence required to prove the person's ability to adequately care for and maintain the memorial.
- (i) Any other information deemed necessary by the department.

History: 1987 a 399; 1989 a 55.

45.05 County and municipal memorials. (1) Any city council, village, town or county board may by gift, purchase, contract or condemnation acquire property, real or personal, for the purpose of providing, furnishing, constructing, erecting, repairing, maintaining, or conducting a suitable memorial to the memory of former residents thereof who lost their lives in the military or naval service of the state or of the United States, or to commemorate and honor the deeds of persons, residents thereof, or of the state or United States, who served the nation in any war, or other persons who rendered great state or national service, or to the memory of any president of the United States, or for a combination of any of such purposes, which are hereby declared to be public purposes.

(2) Such memorial shall be of such character as shall be determined by the governing body of such city, village, town or county, and without limitation because of enumeration, may comprise a public building, hospital, sanatorium, home for the aged or indigent, park, recreation facility, community forest or other suitable object having a public purpose.

(3) Any city council, town, village or county board may appropriate money and may levy a tax in order to acquire, pay for, construct, erect, furnish, equip, operate, repair, maintain or reconstruct a suitable memorial for the purpose or purposes provided in this section.

(4) Any city council or village, town or county board may authorize the use of any public property respectively of such city, village, town or county as a site for a memorial, and any county may authorize its public property to be so used by any city, village or town therein.

(5) Any city council, village, town or county board may by ordinance or contract provide for the management, control or operation of any memorial, and it may enter into a written lease, for a term not exceeding 25 years, with any duly chartered and incorporated veterans' organization established in said town, city or village, such lease to include

provisions for the amount of rental and such conditions of public use as it may determine.

(6) Any county, city, village or town that has previously taken action toward the establishment of a monument or memorial under the statutes of 1943 or prior statutes may continue under such previously existing statutes or may proceed under this section.

45.052 Memorial corporations organized under 1919 act.

(1) **ADDITIONAL POWERS OF GOVERNING BODY.** Any commission or board of trustees which governs a corporation organized to construct a memorial under s. 45.057 (5), statutes of 1919 to 1943 (created by chapter 598, laws of 1919, and repealed by chapter 301, laws of 1945), shall have the following powers in addition to those it now has:

(a) All powers vested in the members of such corporation by the articles of incorporation or bylaws, including the power to amend the articles of incorporation.

(b) The powers set forth in s. 181.04 and all other applicable provisions of ch. 181.

(c) It may convey any property under its control to any municipality and lease it back under terms agreed upon by the commission or board and the municipality.

(d) It shall have a membership composed of 5 residents of the city, village or town in which the memorial is located, one appointed by the common council, village board or town board of the city, village or town, and 4 by the circuit judge of the county in which the memorial is located. The commission or board may appoint 4 additional members who are residents of this state. The terms of all members shall be 5 years. In order that terms of members may expire at different times, not more than 2 members shall be appointed in any one year in addition to appointments made to fill vacancies occurring by resignation or death. Members shall hold office until their successors are appointed and qualify.

(e) It may dissolve the corporation and dispose of the real and personal property of the corporation in a manner which it deems will best serve the purposes for which it was organized and the interests of the community.

(2) **CONFIRMING EXISTENCE AND OPERATION.** Notwithstanding the repeal of s. 45.057, 1943 stats., by chapter 301, laws of 1945, the continuing existence of all commissions, boards and corporations organized under s. 45.057 (5), statutes of 1919 to 1943, is affirmed, and the continuing operation of such commissions, boards and corporations is ratified as to the past and authorized in the future.

History: 1977 c. 449 s. 497; 1979 c. 138; 1981 c. 314.

45.055 Joint memorials. Any city council or village, town or county board may contract with or make an appropriation, or both, to any other unit of government or to any nonprofit corporation without capital stock organized expressly for any of the purposes of s. 45.05 or to any duly chartered and incorporated veterans' organization established in any such city, village, town or county, and for the purpose of raising funds for such memorial purposes or contributions, may levy taxes upon the taxable property located in the county or municipality, or borrow money and issue the bonds of the respective municipalities therefor in the manner and under the regulations provided by ch. 67; provided that the facilities of such memorial are made available to the residents of the governmental unit making such appropriation to the extent that the governing body of the governmental unit may require.

History: 1985 a. 29.

45.058 Memorials in populous counties. (1) Any county having a population of 500,000 or more may establish and

maintain a memorial or memorials under ss. 45.05 and 45.055 by agreement between the county board of such county and any nonprofit private corporation without capital stock organized under the laws of this state (except as in this section provided) expressly for any of the purposes of s. 45.05 located in such county.

(2) The board of directors of such corporation shall be designated as the "memorial board", and its members shall be styled "trustees". The membership of the memorial board may include special members, who need not be members of the corporation.

(3) The memorial board shall consist of 15 members; of whom 8 may be special members to be elected as provided in this section; and the remaining members shall be elected from the membership of the corporation.

(4) Special members of the memorial board shall be elected by the county board of such county and consist of:

(a) Four members from the county board, and

(b) Four members elected from among the residents of the county.

(5) Terms of members of the memorial board shall be:

(a) For special members:

1. Members elected from the county board shall be elected at the first meeting of the county board following each county board general election and their terms shall commence on that date. They shall hold office during their terms on the county board and until their successors are elected and qualified.

2. Members elected from among the residents shall hold office for 4 years and until their successors are elected, except that the first 4 such members shall be chosen for 1, 2, 3 and 4 years, respectively.

3. Any vacancy in such special membership shall be filled by the county board for the unexpired term, and until a successor is elected and qualified.

(b) For elected members from the corporate membership: The terms of such trustees shall be for such numbers of years that those of an equal number, as nearly as may be, shall expire in 2, 3, and 4 years, and successive terms of 4 years each thereafter and until their successors are elected and qualified.

(6) The articles of incorporation of the corporation shall provide originally or by amendment, in addition to other necessary provisions, and as permitted by this section, for the classification of the members of the corporation, for the election of trustees proportionately from and by such classifications, for the terms of the members of the corporation and for the officers, their duties, and the terms thereof to be elected from the membership.

(7) Any such war memorial may be constructed upon any land ceded before July 15, 1953 by this state to any municipality in this state notwithstanding any restrictions, limitations or conditions as to the nature of the use of any such land contained in the legislative act, granting the land to any such municipality, and notwithstanding such restrictions, limitations or conditions incorporated in any subsequent conveyance of said lands by such municipality.

(8) Any such war memorial may be constructed in any public park and the use of such park lands as a location for a war memorial shall not be deemed to be inconsistent with the use of the same for park purposes. However, no war memorial shall be constructed in a public park until the park commission, general manager appointed under s. 27.03 (2) or park board having jurisdiction of such park shall approve the same. The county board of any county may authorize the construction of a war memorial at different intervals of time if the proposed memorial consists of more than one building or structure and any county board subsequently elected shall

carry into effect any contract authorized by s. 45.055 entered into on behalf of such county for the construction or maintenance of such a war memorial. The construction, maintenance and operation of a war memorial in a county park shall be subject to the jurisdiction of the county board and no part of the cost thereof shall be charged against the funds of the park commission, park system or park board of such county.

History: 1985 a. 29.

45.059. Catalog of memorials. The department of veterans affairs shall prepare a catalog of memorials, describing each memorial and giving its location and condition. The department shall update that catalog.

History: 1989 a. 336.

45.06. Rooms furnished by county or municipality. The action of any county board or municipality, or department thereof, in granting veterans organizations or any other civic, patriotic, educational or historical society, rooms and space within public buildings for the establishment of memorial halls and museums, and occupancy thereof by its members, is authorized and confirmed. Such county board or municipality may permit the use and occupancy of such rooms and space for such term and subject to conditions and provisions as may be imposed by them. Any contract, lien or agreement between said county board, municipality or department thereof and any such organization now in force shall continue in force according to the terms thereof.

45.066. Memorial trees along highways. No person shall cut or trim any tree planted along any federal or state trunk highway as a memorial to the men and women who served in the armed forces of the United States in time of war, without the written permission of the department of transportation. Violations of this section shall be punishable by a fine of not less than \$10 nor more than \$200 or by imprisonment for not more than 30 days or both. Nothing in this section shall interfere with the rights of abutting property owners in such trees.

History: 1977 c. 29 s. 1654 (8) (c).

45.10. County tax for needy veterans. Every county board shall annually levy, in addition to all other taxes, a tax sufficient to carry out the purposes of this section, such tax to be levied and collected as other county taxes for the purpose of providing aid to needy veterans, the needy spouses, surviving spouses, minor and dependent children of such veterans and the needy parents of such veterans entitled to aid under ss. 45.10 to 45.15, and to carry out the purposes of ss. 45.16 to 45.185. Aid may not be denied solely on the basis that a person otherwise eligible therefor owns a homestead which the person occupies as such.

History: 1975 c. 94 s. 91 (4), (6); 1975 c. 199.

45.11. Estimate of amount needed. (1) Except as provided under sub. (2), the county veterans' service commission shall estimate the probable amount required under s. 45.10 and shall file such estimate with the county board.

(2) A county veterans' service officer appointed under s. 45.43 (1) (b) shall have the powers and duties prescribed for the county veterans' service commission under sub. (1).

History: 1985 a. 29.

45.12. County veterans' service commission. (1) There is created in each county a "County Veterans' Service Commission" consisting of 3 residents of the county who are veterans appointed for staggered 3-year terms by the county executive or county board chairperson in a county which does not have a county executive.

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89-90 Wis. Stats. 916

(2) The commission shall be organized by the election of one of their number as chairperson. The county executive or county board chairperson in a county which does not have a county executive after the expiration of the terms of those first appointed shall annually on or before the 2nd Monday in December appoint one person as a member of the commission for the term of 3 years. The county executive or county board chairperson shall require each member of the commission and the county veterans' service officer to execute to the county an individual surety bond, with sufficient sureties to be approved by the county executive or county board chairperson, each bond to be in an amount equal to the tax levied in the current year for expenditure by the commission. Each bond shall be filed with the county clerk.

History: 1977 c. 449; 1983 a. 192 s. 303 (1); 1987 a. 403 s. 255

45.13 Records of meetings and investigations kept by service officer. The county veterans' service officer shall serve as executive secretary of the county veterans' service commission and shall make or direct all necessary investigations to determine eligibility for aid under s. 45.10 when so requested by the commission. The county service officer, in making such investigation, may use the facilities for investigating that are made available by the county board of the county.

History: 1989 a. 56

45.14 Administration of aid. (1) Such commission shall meet at the courthouse or at such other place as the county board shall designate on or before the first Monday of January in each year and at such other times as may be necessary.

(2) Except as provided under sub. (3), the commission may furnish aid to any person within s. 45.10 if the right of such person to aid shall be established to its satisfaction. The secretary of the commission shall make and deposit with the county clerk a list containing the name, place of residence and the amount to be paid each such person, which shall be signed by the chairman and secretary. The total disbursements made by the commission shall not exceed the amount collected from the tax levied. When such lists are filed the county clerk shall issue an order upon the county treasurer for the sum designated therein in each case and deliver it to the person entitled thereto. The commission may furnish aid in a different manner than by supplying money. The commission may request the county clerk to issue an order upon the county treasurer to a purveyor of services or commodities for the purchase of such services or commodities or the commission may furnish such supplies as it deems best. The commission shall make a detailed report to the county board at each annual session thereof showing the amount expended.

(3) A county veterans' service officer appointed under s. 45.43 (1) (b) or (4) shall have the administrative powers and duties prescribed for the county veterans' service commission under sub. (2).

History: 1985 a. 29

45.15 Commission, compensation. The county board shall allow the members of the commission a reasonable rate of compensation for services and actual expenses incurred in the performance of their duties to be determined pursuant to s. 59.15. The county board may provide for the employment of clerical assistance to the commission.

45.16 Burial allowance. Each county veterans' service officer shall cause to be interred in a decent and respectable manner in any cemetery in this state, other than those used exclusively for the burial of paupers, the body of any person who served in any war of the United States, in the Korean

conflict, in the Vietnam era, under section 1 of executive order 10957, dated August 10, 1961, or had service that entitled the person to receive the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, the Vietnam service medal established by executive order 11231 on July 8, 1965, the navy expeditionary medal or the marine corps expeditionary medal or who served in Grenada, Lebanon or a Middle East crisis under s. 45.34 and who was discharged under honorable conditions after 90 days or more of active service, in the U.S. armed forces, or if having served less than 90 days was honorably discharged for disability incurred in line of duty and who was living in the county at the time of death, and who dies not leaving sufficient means to defray the necessary expenses of a decent burial, or under financial circumstances that would distress the person's family to pay the expenses of the burial, and the body of a spouse or surviving spouse of the person who dies not leaving such means or under the same financial circumstances and who was living in the county at the time of death, at an expense to the county of not more than \$300 in addition to the burial allowance payable under laws administered by the U.S. department of veterans affairs.

History: 1971 c. 125, 163; 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1983 a. 430; 1987 a. 399; 1987 a. 403 s. 255; 1989 a. 31, 56, 359.

45.17 Investigation and report. Before assuming the burial expense, the county veterans' service officer shall make a careful inquiry into and examination of all the circumstances in the case to ascertain the existence of either financial condition required by s. 45.16. The officer shall report to the county clerk that the officer found the required financial condition, the facts supporting the finding, and the name, rank and command to which the deceased belonged, the date of death, the place where buried, occupation and an itemized statement of the burial expenses.

History: 1989 a. 56

45.18 Order for expenses; headstone. The chairperson of the county board and the clerk of the county on the receipt of the report under s. 45.17 shall draw an order on the county treasurer for the amount of expenses so incurred, payable to the person designated in the report as being entitled thereto. The county veterans' service officer of each county shall, upon the death and burial of any such person living in the county at the time of death, make application to the proper authorities for a suitable headstone as provided for by act of congress, and at the expense of the county cause the same to be placed at the head of his or her grave.

History: 1983 a. 538; 1987 a. 403 s. 255.

45.185 Care of soldiers' graves. (1) Every town board, village board or common council of every city shall at all times see that the graves and tombstones of all members of the armed forces of the United States, including women's auxiliary organizations created by act of congress, who shall at any time have served in any branch of the armed forces of the United States, and of the spouses or surviving spouses of all such members of the armed forces, receive proper and decent care, and may employ all necessary assistance to carry out this section. The expense of the care of such graves and tombstones shall be borne by the respective counties where the said graves are located, except where suitable care is otherwise provided. The amount of expense so charged the county for such care shall not exceed the charge made for the care of other graves in the same cemetery.

(2) Such bodies shall report to the county clerk of their respective counties, on or before September 1 of each year, the respective locations of the graves so taken care of by them, together with the name and command to which every

such member of the armed forces of the United States, including women's auxiliary organizations created by act of congress belonged, his or her rank at the date of death, and the amount claimed for such care for a fiscal year from July 1 to June 30.

(3) The chairman of the board and the clerk of such county, upon receipt of such report, shall draw an order on the county treasurer for the amount of the expenses so incurred, payable to the person or persons designated in said report as entitled thereto.

History: 1975 c. 94 s. 91 (4), (6)

45.21 Registration of certificate of discharge. Every person who has served in the U.S. armed forces at any time, and who has been honorably discharged or given a certificate of service or relieved from active service may record with the register of deeds of any county, in a suitable book provided by the county for that purpose, a certificate of discharge or release. The certificate shall be accessible only to the person or dependents, the county veterans' service officer, department of veterans affairs, or any person with written authorization from the person discharged or dependents. The register of deeds may not charge for recording, except that in counties where the register of deeds is under the fee system and not paid a fixed salary the county shall pay the fee specified in s. 59.57 (1) (a). The record of any such certificate heretofore made is hereby legalized.

History: 1973 c. 12; 1987 a. 403 s. 255; 1989 a. 56

45.28 Vietnam and post-Vietnam era veterans educational grant program. (1) **ADMINISTRATION.** (a) There is established, to be administered by the department, a grant program for Vietnam and post-Vietnam era veterans enrolling as full-time undergraduates in institutions of higher education in this state. This program shall be administered exclusively for the benefit of eligible veterans.

(b) In this section, "veteran" means any person who served on active duty under honorable conditions in the U.S. armed forces for 90 days or more for other than training purposes between August 5, 1964, and July 1, 1975, or who is eligible to receive education benefits from the U.S. department of veterans affairs for active service in the U.S. armed forces between August 5, 1964, and July 1, 1975, or who served in Grenada, Lebanon or a Middle East crisis under s. 45.34 and who has not received a bonus from another state for the service and to whom any of the following applies:

1. The person's selective service local board, if any, and home of record at time of entry into active service as shown on the report of separation from the U.S. armed forces were in this state.

2. The person was a resident of this state at the time of entry into active duty.

3. The person has been a resident of this state for at least 5 years immediately preceding an application for a grant under this section.

(c) The amount of the grant shall be based on the student's financial need as determined by the department after disregarding any payment described under s. 45.85. The maximum grant per academic year shall not exceed \$400 for married veterans or veterans with dependents and \$200 for single veterans. The department shall distribute such grants to students eligible under this program and such grants may be renewable for up to 4 academic years.

(d) For the purpose of this section, veterans shall be considered independent students not required to contribute summer or parental earnings. Spouse's income and current student earning shall be considered in need determination if

such income exists. Federal educational veterans benefits shall also be considered in need determination.

(e) The department shall promulgate rules relating to the distribution of grants under this program. These rules shall include the establishment of selection procedures, uniform need determination procedures, standard single and married student educational budgets for various institutions and such other rules as the department deems necessary to assure uniform administration of the program. Rules relating to need determination under this paragraph shall be promulgated in conformance with guidelines established by the board of veterans affairs. The student budgets used in the determination of need shall be established at least annually and shall adequately recognize the unique and additional needs of veterans and their families.

(f) The department shall prescribe, furnish and make available, at locations in the state convenient to the public, such as county veterans' service offices, and to all qualifying schools, application forms for veteran's grants under this section. Upon request, it shall advise and assist applicants in making out such forms.

(g) Veterans who receive grants but subsequently do not complete the semester and receive a fee refund shall return to the state a prorated share of the grant based upon the number of weeks not completed.

(2) **STUDENT ELIGIBILITY.** The department shall develop selection procedures and may make grants to students if:

(a) The student is a veteran.

(b) The student is enrolled or accepted for enrollment as a full-time undergraduate in an institution of higher education in this state as defined in s. 39.32 (1) (a).

(c) The student is a resident student as defined by s. 36.27, so far as applicable.

(d) The student needs financial assistance as established under sub. (1).

History: 1973 c. 90; 1973 c. 335 s. 13; 1975 c. 39, 199; 1981 c. 237; 1983 a. 430; 1985 a. 129; 1985 a. 332 s. 251 (1); 1987 a. 399; 1987 a. 403 s. 255; 1989 a. 56, 101, 359.

45.30 Assignment of mentally ill, alcoholic and drug dependent persons. (1) (a) Whenever it appears that any person, other than a prisoner, is eligible for treatment in a U.S. veterans facility and inpatient admission is necessary for the proper care and treatment of such person, the circuit court in the county in which the person is found may, upon request of such person and upon receipt of a certificate of eligibility from the U.S. department of veterans affairs, after adjudging the person mentally ill, an alcoholic or drug dependent in accordance with law, direct such person's assignment to the U.S. department of veterans affairs for hospitalization in a U.S. veterans facility. Upon admission to any such facility, the person shall be subject to the rules and regulations of the U.S. department of veterans affairs. The chief officer of such facility is vested with the same powers exercised by directors of state institutes within this state with reference to the retention, transfer or discharge of the person assigned.

(b) Any commitment of a veteran under this section shall be in accordance with s. 51.20. The commitment of a person to a veterans facility within this state by a judge of or a court of record of another state under a similar provision of law has the same force as if such commitment were made by a court of this state. After a person has been legally committed to the department of health and social services or to a county department under s. 51.42 in this state, the department of health and social services, upon request of such person and upon receipt of a certificate of eligibility from the U.S. department of veterans affairs evidencing the right of such

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person to be admitted to a veterans facility, may transfer such person to such facility and the cost of the person's transportation, together with that of any necessary attendant, shall be a proper charge against such person's care in such institution. After such transfer the powers granted by this section to the chief officer of such veterans facility shall be applicable. Any person transferred as provided in this subsection is deemed committed to the U.S. department of veterans affairs pursuant to the original commitment.

(2) Whenever an application to determine mental illness, alcoholism or drug dependence is made as prescribed by s. 51.20, the court shall make such inquiry as may be necessary and proper to ascertain whether the alleged mentally ill, alcoholic or drug dependent person is eligible for treatment in a U.S. department of veterans affairs facility.

History: 1975 c. 430; 1977 c. 428; 1977 c. 449 s. 497; 1983 a. 27; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1989 a. 56.

45.34 Lebanon and Grenada and Middle East crisis. (1) SERVICE IN LEBANON AND GRENADA. A person shall be considered to have served in Lebanon or Grenada if the person was on active duty in Lebanon or its territorial waters under honorable conditions between August 1, 1982, and the date of withdrawal of U.S. armed forces from Lebanon, as established by the department by rule, or in Grenada between October 23, 1983, and November 21, 1983, and:

(a) Was entitled to receive the armed forces expeditionary medal established by executive order 10977 on December 4, 1961;

(b) Was entitled to receive the marine corps or navy expeditionary medal; or

(c) Was not entitled to receive a medal under par. (a) or (b) but submits other proof of service acceptable to the department.

(2) **MIDDLE EAST CRISIS.** A person shall be considered to have served in a Middle East crisis if, because of active duty in the U.S. armed forces or forces incorporated as a part of U.S. armed forces, any of the following apply:

(a) The person was awarded the humanitarian service medal for participating in the attempt to rescue American hostages in Iran.

(b) The person was awarded the valor ribbon bar by the U.S. state department for having been a hostage in Iran during the Iranian hostage crisis in 1980 and 1981.

(c) The person participated in the April 14, 1986, military action against Libya.

(d) The person served on the U.S.S. Stark on May 17, 1987.

History: 1983 a. 430, 538; 1987 a. 399.

45.35 Department of veterans affairs. (1) POLICY. It is the policy of the state to give health, educational and economic assistance to veterans and their dependents, who are residents of this state to the extent and under the conditions determined by the board within the limitations hereinafter set forth.

(2) **DEFINITION.** In this chapter "board" means board of veterans affairs.

(3) **BOARD FUNCTIONS.** (a) The board may promulgate rules necessary to carry out the purposes of this chapter and the powers and duties conferred upon them. The records and files of the department of military affairs and of any other state department or officer shall, upon request, be made available to the board.

(b) The board shall establish guidelines for the department's rules under s. 45.28 (1) (e) relating to procedures for uniform need determination for Vietnam era veterans educational grants.

(3d) **COUNCIL ON VETERANS PROGRAMS.** (a) The council on veterans programs created under s. 15.497 shall advise the

board of veterans affairs and the department of veterans affairs on solutions and policy alternatives relating to the problems of veterans.

(b) The council on veterans programs and the department of veterans affairs, jointly or separately, shall submit a report regarding the council on veterans programs to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) by November 1, 1989, and by September 30 of every odd-numbered year thereafter. The report shall include a general summary of the activities and membership over the past 2 years of the council and each organization on the council.

(3m) **CAMP RANDALL MEMORIAL.** (a) The board may approve, recommend and veto any proposed plans, modifications and changes or policies with respect to established state memorials, including the Camp Randall memorial park, Madison, Wisconsin, as described in par. (c), and any future veterans state memorials; and recommend the creation and establishment of veterans state memorials.

(b) No structures other than memorials approved by the board and walks, roads and subterranean footings may be placed or erected upon Camp Randall memorial park unless authorized by the legislature; nor shall the park be used for any purpose other than a memorial park.

(c) Camp Randall memorial park, Madison, Wisconsin, is established and described as follows: beginning on the west line of Randall avenue 96.6 feet north of the center line of Dayton street extended; thence west at right angles to Randall avenue 370 feet; thence south parallel to Randall avenue 722 feet; thence west at right angles to Randall avenue 235 feet; thence south parallel to Randall avenue 205 feet to the north line of Monroe street; thence north 50 degrees 14 minutes east along the north line of Monroe street approximately 780 feet to the west line of Randall avenue; thence north along the west line of Randall avenue 429 feet to the place of beginning.

(4) **DEPARTMENT STAFF.** The secretary shall appoint under the classified service such persons as are necessary to carry out the policy of the board and for the proper conduct of the memorial hall. All persons appointed by the department shall, if possible, be veterans as defined in sub. (5) and preference shall be given to disabled veterans.

(5) **VETERAN DEFINED; BENEFIT.** "Veteran" as used in this chapter, except in s. 45.37 and unless otherwise modified, means any person who served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces, except service on active duty for training purposes, served in Grenada, Lebanon or a Middle East crisis under s. 45.34 or whose service entitled the veteran to receive the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, the Vietnam service medal established by executive order 11231 on July 8, 1965, the navy expeditionary medal or the marine corps expeditionary medal or any person who served for 90 days or more during a war period as enumerated under pars. (a) to (g) or under section 1 of executive order 10957 dated August 10, 1961, or if having served less than 90 days was honorably discharged for a service-connected disability or for a disability subsequently adjudicated to have been service connected or died in service, who is either a resident of and living in this state at the time of making application or is deceased, and whose selective service local board, if any, and home of record at time of entry or reentry into active service as shown on the veteran's report of separation from the U.S. armed forces for a qualifying period were in this state or who was either a resident of this state at the time of entry or reentry into active duty or has been a resident of this state for

at least 10 years next preceding the veteran's application or death. If the person had more than one qualifying term of service, at least one term of service must have been under honorable conditions or have been terminated by an honorable discharge for the purpose of establishing eligibility under this section and s. 45.37 (1a). Veterans who are otherwise eligible and who are serving on active duty in the U.S. armed forces need not be living in this state on date of application to qualify for benefits from the department. The benefits available to veterans are also available to the unremarried surviving spouses and minor or dependent children of deceased veterans if the unremarried surviving spouses or minor or dependent children are residents of and living in this state at the time of making application. Any person whose service on active duty with the U.S. armed forces or in forces incorporated as part of the U.S. armed forces makes the person eligible for general U.S. department of veterans affairs benefits shall be deemed to have served under honorable conditions for the purpose of this subsection and s. 45.37 (1a). The following are designated as war periods:

(a) Indian war: Between 1860 and 1898.

(b) Spanish American war: Between April 21, 1898, and April 11, 1899.

(c) Philippine insurrection: Between April 12, 1899, and July 4, 1902 (extended to July 15, 1903, if actually engaged in Moro Province hostilities).

(d) Boxer rebellion: Between June 16, 1900, and May 12, 1901.

(da) Mexican border service: Between June 19, 1916, and April 5, 1917.

(e) World War I: Between April 6, 1917, and November 11, 1918 (extended to April 1, 1920, if service was in Russia).

(f) World War II: Between August 27, 1940, and July 25, 1947.

(fm) Korean conflict: Between June 27, 1950, and January 31, 1955.

(g) Vietnam era: Between August 5, 1964, and July 1, 1975, excepting service on active duty for training purposes only.

(5m) DEPENDENT DEFINED. "Dependent" of a veteran as used in this section and s. 45.351 includes only:

(a) A wife or husband, an unremarried widow or widower; or a divorced wife only when receiving benefits under a court order.

(b) Any child of the veteran under 18 years of age, or if in full attendance at a recognized school of instruction, or of any age if incapable of self-support by reason of mental or physical disability. "Child" as used in this section means any natural child, any legally adopted child, any stepchild or child if a member of the veteran's household or any nonmarital child if the veteran acknowledges paternity or the same has been otherwise established.

(c) The natural mother or natural father or a person to whom the veteran stands in the place of a parent and who has so stood for not less than 12 months prior to veteran's entrance into active service.

(d) A minor sister or minor brother or a brother or sister of any age if incapable of self-support by reason of mental or physical disability.

(6) COORDINATION DUTIES. The department shall coordinate the activities of all state agencies performing functions relating to the medical, hospital, or other remedial care, placement and training, educational, economic or vocational rehabilitation of persons who served in the armed forces of the United States at any time and who were honorably discharged, including such persons with disabilities whether or not service-connected or war-connected. In particular it shall coordinate the activities of the board of vocational,

technical and adult education, state selective service administration, department of health and social services, department of industry, labor and human relations, department of public instruction, the university of Wisconsin system and other educational institutions, and all other departments or agencies performing any of the functions specified, to the end that the benefits provided in this section may be made available to veterans as promptly and effectively as possible.

(7) CONTACT DUTIES. The department shall maintain contacts with county veterans' service officers and local agencies, the American Red Cross and veterans' organizations concerned with the welfare of veterans and shall contact and cooperate with federal agencies in securing for veterans all benefits to which they may be entitled.

(7a) CLAIMS OF VETERANS, ASSISTANCE. The department upon request shall assist all persons residing in the state having claims against the United States for pensions, bounty or back pay, where such claims have arisen out of or by reason of service in the U.S. armed forces. To this end it shall cooperate with their agents or attorneys, advise as to the legality of claims, furnish all necessary certificates and certified abstracts from and copies of records and documents in its office, and in all practicable ways seek to secure speedy and just action upon all claims now pending or which may hereafter be filed. It shall also, in cases where it may be expedient, act as agent or attorney of record in prosecuting claims for such persons requesting it to do so. For any such services rendered no person in the employ of the department shall make any charge or demand or receive from the said claimants or any of them, directly or indirectly, any pay or compensation whatever. It shall provide for registration with the register of deeds of each county the names of all persons from such county who died in the services of the United States during the Spanish-American War, Philippine insurrection, Boxer rebellion, Mexican border service, World Wars I and II, the Korean conflict or Vietnam service.

(8) MINORS' EXECUTION OF DOCUMENTS; BENEFITS EXEMPT FROM EXECUTION. (a) Any minor who is a veteran and any minor who is the spouse, surviving spouse or child of a veteran may execute notes, mortgages and other contracts and conveyances to the department and such notes, mortgages, contracts and conveyances shall not be subject to the defense of infancy.

(b) The benefits and aid provided under any of the following are not assignable and are exempt from garnishment and execution:

1. Section 45.352, 1971 stats.
2. Section 45.351.
3. Subchapter II, except as provided under ss. 45.74 (6) and 45.80 (2) (e).
4. Section 45.396.
5. Section 45.28.

(9) VOCATIONAL TRAINING. The department in cooperation with the department of health and social services shall make available to disabled veterans the benefits of vocational training and guidance, including veterans who have filed claims for federal rehabilitation benefits and during the pendency of such claims. In cases where such claims are allowed and federal reimbursement is made to the state, such money shall be paid into and become a part of the veterans trust fund.

(10) PLACEMENT OF VETERANS. The department in cooperation with the department of industry, labor and human relations and state selective service administration or any other federal, state or local agency shall formulate and carry out plans for the training and placement of veterans.

(12) EXPENDITURES. (a) All expenditures for execution of functions under this section shall be made from the veterans trust fund as provided in s. 20.485.

(b) The secretary shall certify to the department of administration for payment all aid to veterans and their dependents authorized under the rules and regulations of the board and shall certify or approve and forward to it payrolls and other vouchers for other expenditures of the board authorized under such rules and regulations.

(13) GIFTS. (a) The department may receive money, lands or other gifts in its name for the benefit of Wisconsin veterans and their dependents, or either, in accordance with policies adopted by the board. Such money shall be deposited in the state treasury and credited to the veterans trust fund and is appropriated therefrom by s. 20.485 (2) (z) to the department to be used in accordance with such policies.

(b) The department may also receive moneys or other gifts and bequests in its name for the benefit of the G.A.R. memorial hall. All moneys so received shall be deposited in the state treasury and credited to the veterans trust fund and is appropriated therefrom by s. 20.485 (2) (z) to the department to be used, as far as practicable in accordance with the wishes of the donors, and in accordance with the policies adopted by the board.

(14) POWERS, DUTIES, FUNCTIONS. The department shall, without limitation because of enumeration, also have the following powers, duties and functions:

(a) To assist in the coordination of the state, county, municipal and private activities relating to veterans' housing.

(b) To cooperate with any and all federal departments, agencies and independent establishments relating to veterans' housing, materials, priorities and finances.

(c) To assist any housing authority, municipality or other private enterprise engaged in supplying additional veterans' housing in the acquisition of materials, finances, legal aid and compliance with federal rules and regulations.

(d) To utilize the services and facilities of existing state departments and boards and county veterans' service officers. Charges for legal services furnished the department by the department of justice shall be paid from the appropriation in s. 20.485 (2) (u).

(e) To employ such assistants as it deems necessary to carry out its functions.

(f) To receive money from federal agencies for the purpose of providing veterans' housing in localities throughout the state.

(g) To perform such other duties as specifically set forth in other sections of the statutes.

(15) LIBERAL CONSTRUCTION INTENDED. This section, ss. 45.351 and 45.37 and subch. II shall be construed as liberally as the language permits in favor of applicants.

(16) DEFERRAL OF PAYMENTS AND INTEREST ON LOANS. When a veteran or a member of the veteran's family makes application for deferment of payment of monthly instalments and waiver of interest charges on veterans' loans made under this chapter, showing that the ability of such veteran to make payment is materially and adversely affected by reason of military service, the department may, with the approval of the board, defer payment of monthly instalments and waive interest charges on veterans' loans made under this chapter for the duration of any period of service in the armed forces of the United States during a national emergency or in time of war or under P.L. 87-117 and 6 months from date of discharge or separation and the time for payment may be extended for a like period. However, when funds estimated to be received in the veterans mortgage loan repayment fund to pay debt service on public debt contracted under s. 20.866 (2)

(zn) and (zo) are less than the funds estimated to be required for the payment of the debt service, the board may grant deferral of payments and interest on loans provided under s. 45.79 only when so required by federal law.

(17) APPLICATION REQUIREMENTS AND PENALTIES. (a) In any case where the department finds that an applicant for benefits from the department has wilfully made or caused to be made, or conspired, combined, aided or assisted in, agreed to, arranged for, or in any wise procured the making of a false or fraudulent affidavit, declaration, certificate, statement or other writing, it may suspend all benefits available to such applicant from the department under this chapter.

(b) Any person who, with the intent to secure any benefits under this chapter, for personal benefit or for others, wilfully makes or causes to be made, or conspires, combines, aids, or assists in, agrees to, arranges for, or in any wise procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, or other writing, may be fined not more than \$500 or be imprisoned for not more than 6 months, or both. Such fine or imprisonment may be imposed in addition to the penalty provided in par. (a).

(c) 1. The department shall declare immediately due and payable any loan made after July 29, 1979 under a program administered by the department under s. 45.351 or subch. II, if it finds that the loan was granted to an ineligible person due to any of the following circumstances:

a. The applicant did not report income amounts as required on the loan application;

b. The applicant did not make the disclosures required under subd. 2. a, b or c on the loan application; or

c. The applicant transferred assets or liabilities or incurred liabilities for less than fair consideration with the intent to thereby qualify for and secure the loan.

2. Loan application forms processed by the department for programs administered under s. 45.351 or subch. II shall:

a. Require disclosure of any asset with a value over \$500 transferred by the applicant for less than fair consideration, within one year immediately prior to the loan application date. In determining the applicant's need for a loan, the department shall consider such assets to be assets of the applicant.

b. Require disclosure of any liability of more than \$500 incurred by the applicant for less than fair consideration, within one year immediately prior to the loan application date. In determining the applicant's need for a loan, the department shall not consider such liabilities to be liabilities of the applicant.

c. Require disclosure of all liabilities transferred by the applicant within one year immediately prior to the loan application date. Such liabilities transferred for less than fair consideration shall be considered by the department to be liabilities of the applicant to the extent he or she is liable for their payment or for reimbursement of the transferee.

d. Contain notification of the penalties provided for in this paragraph.

3. The department shall incorporate the payment acceleration requirements of subd. 1 in all loan documents for programs administered by the department under s. 45.351 or subch. II.

4. As used in this paragraph, "fair consideration" means the exchange of property, assets or obligations for a fair equivalent thereof, in an amount not disproportionately small or large compared to the value of the property, assets or obligations, as reflected in similar market transactions.

History: 1971 c. 125, 163, 198; 1973 c. 90, 208; 1975 c. 26, 39; 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1977 c. 26, 83; 1979 c. 34; 1979 c. 110 s. 60 (1); 1979 c. 221; 1981 c. 20, 93; 1981 c. 237 ss. 34 to 36, 38; 1983 a. 430, 447; 1985 a. 6, 29, 129; 1985 a. 332 s. 251 (6); 1985 a. 339; 1987 a. 27, 399; 1989 a. 31, 36, 56, 359.

45.351 Economic assistance. (1) GRANTS. The department may grant to any veteran or dependents such temporary emergency aid, in the form of either health care aid or subsistence aid, as it deems advisable to prevent want or distress, subject to the following limitations:

(a) Health care aid to meet medical or hospital bills is limited to a payment of up to \$5,000 per veteran or dependent for a maximum of 30 days within a 12-month period for the same condition or conditions. The department may not grant health care aid under this paragraph unless the aid recipient's health care provider agrees to accept, as full payment for the medical treatment for which the aid is to be granted, the amount of the grant, the amount of the recipient's health insurance or other 3rd party payments, if any, and the amount which the department determines the aid recipient is capable of paying.

(b) 1. Subsistence aid may be provided:

a. On a month-to-month basis.

b. For a 3-month period if the veteran or dependent whose incapacity is the basis for the aid will be incapacitated for more than 3 months and if earned or unearned income or aid from sources other than those listed in the application will not be available in the 3-month period.

2. Subsistence aid is limited to a maximum of 3 months in a 12-month period unless the department determines that the need for subsistence aid in excess of this maximum time period is caused by the aid recipient's relapse.

(2) LOANS. (a) 1. The department may lend any veteran not more than \$4,000 on loans approved before August 9, 1989, and \$4,500 on loans approved during the period beginning on August 9, 1989. The loan is to be used for the purchase of a business or business property or the repairing of or adding to his or her home or business property, the construction of a garage, the education of the veteran or his or her children or to provide essential economic assistance if the department determines, after disregarding any payment described under s. 45.85, that the veteran satisfies the need requirements established by the department by rule. The need requirements may include, but are not limited to, consideration of the veteran's resources and credit available upon manageable terms. The department may prescribe loan conditions, but the interest rate shall be 3% per year for loan applications received by the department before July 20, 1985, and the interest rate shall be 6% per year for loan applications received by the department on or after July 20, 1985, and the term shall not exceed 10 years. The department may lend not more than the loan amount available to a veteran under this subdivision to a veteran's surviving spouse, whether remarried or not, or to the parent of a deceased veteran's children for the education of the minor or dependent children if the surviving spouse or parent is a resident of and living in this state on the date of application.

2. a. The department may lend a veteran not more than \$10,000 to be used for the purchase of a business or business property or for the establishment or operation of a business including providing necessary working capital or acquiring or purchasing needed machinery, equipment, materials, supplies or services used in producing business income. The department may grant a loan under this subdivision only to a veteran who is or will be devoting full time to the business activities for which the loan is requested. The department shall promulgate rules providing criteria for determining business purposes eligible for a loan and for establishing methods to secure a loan. The department may prescribe loan conditions, but the interest rate shall be 7% per year and the term shall not exceed 5 years.

b. The department may not grant a loan under this subdivision for more than 20% of the amount needed by the applicant for the purpose for which the loan is made. The applicant must provide at least 5% of the total amount needed for the business purpose from the applicant's own funds. The department may grant a loan to an applicant if the total amount that the applicant will be required to borrow, including the amount loaned under this subdivision, will not exceed \$50,000 and if the applicant is financially able with the aid of those loans and other available credit to finance the business purpose.

c. The department may grant a loan under this subdivision to a veteran who is receiving 100% disability compensation from the U.S. department of veterans affairs due to a permanent and total service-connected disability under 38 USC 301 to 315, 331 to 337 and 351 to 362, if the annual income of the veteran or both the veteran and the veteran's spouse does not exceed 140% of the annual income limit under par. (b).

3. The department may charge loan expenses incurred under this subsection to a loan applicant.

4. Nothing in this paragraph prohibits a veteran from receiving loans under subsds. 1 and 2 for any purpose specified in those subdivisions.

(b) 1. In this paragraph, "income" means the amount of gross income a veteran and spouse are receiving for their regular work together with any income from other sources that may reasonably be expected to continue for the term of the loan.

2. No person may receive a loan under this subsection if the department determines, after disregarding any payment described under s. 45.85, that the person's annual income exceeds \$500 for each dependent in excess of 2 dependents plus whichever of the following applies:

a. For loans approved before August 9, 1989, \$25,000.

b. For loans approved during the period beginning August 9, 1989, and ending on June 30, 1990, \$28,000.

cm. For loans approved beginning July 1, 1990, \$30,000.

3. In determining eligibility for loans under this subsection, the department shall verify all reported income amounts by contacting the employer designated by the person, securing a copy of the person's prior year's income tax return or obtaining a profit and loss statement from the person for at least 6 of the 12 months immediately preceding the loan application date.

(c) No person may receive a loan under this subsection if the department receives a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

(d) The legislature finds that the loan programs established under this subsection are special purpose credit programs for an economically disadvantaged class of persons for the purposes of the federal equal credit opportunity act (15 USC 1691-1691f).

(e) An applicant for a loan under this subsection shall apply to a lender authorized by the department on forms approved by the department. The applicant, and, if the applicant is married and not separated or in the process of obtaining a divorce, the applicant's spouse, shall complete and sign the application.

(f) The department may execute necessary instruments, collect interest and principal, compromise indebtedness, sue and be sued, post bonds and write off indebtedness that it deems uncollectible. If a loan under this subsection is secured by a real estate mortgage, the department may exercise the rights of owners and mortgagees generally and the rights and

powers set forth in s. 45.72. Interest and repaid principal shall be paid into the veterans trust fund.

(g) The department shall satisfy the loan of any veteran who has obtained a loan under s. 45.35 (8b), 1963 stats., from July 11, 1945, to October 1, 1965, or under this subsection or who obtains a loan under this subsection in the future if the veteran died or dies after July 1, 1963, and before completing repayment of the loan and shall issue a satisfaction of any security instruments executed in connection with the loan and write off the balance of principal, interest and costs owing on the loan upon the date it received confirmation of the veteran's death. Obligation to repay the loan shall terminate on the date of the veteran's death and any payments made thereon to the department after that date shall be refunded to the payor or heirs, executor or administrator from the appropriation in s. 20.485 (2) (vm) upon receipt by the department of an application for refund.

(3) **APPROPRIATIONS.** The department may award grants and loans under this section from the appropriation in s. 20.485 (2). Nothing in this section empowers the department to incur any state debt.

History: 1971 c. 125 s. 552 (1); 1971 c. 198, 199; 1973 c. 208 s. 17; 1975 c. 39; 1975 c. 94 s. 91 (5), (7); 1975 c. 199, 224, 422; 1979 c. 34 ss. 817vw to 817x, 2102 (56) (a); 1979 c. 110 s. 60 (13); 1983 a. 27, 189; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31.

45.353 Grants to veterans organizations. (1) In this section:

(a) "Regional office" means the U.S. department of veterans affairs regional office in Wisconsin.

(b) "State veterans organization" means a state organization or department of a national veterans organization, which national organization is incorporated by an act of congress.

(2) Upon application the department shall make a payment to any state veterans organization that establishes that it, or its national organization, or both, has maintained a full-time service office at the regional office for at least 5 of the 10 years preceding the date of application. The payment shall equal 25% of all salaries and travel expenses under sub. (3) paid during the previous fiscal year by the state veterans organization to employes engaged in veterans claims service and stationed at the regional office, except that the sum paid to a state veterans organization annually shall not be less than either \$2,500, or the amount of salaries and travel expenses paid by the state veterans organization to employes stationed at the regional office, whichever is less, nor more than \$15,000.

(3) Application by any such state veterans organization shall be filed annually with the department for the 12-month period commencing on April 1 and ending on March 31 of the year in which it is filed. An application shall contain a statement of salaries and travel expenses paid to employes engaged in veterans claims service maintained at the regional office by such state veterans organization covering the period for which application for a grant is made, which statement has been certified as correct by an accountant certified under ch. 442 and sworn to as correct by the adjutant or principal officer of the state veterans organization. The application shall also contain the state organization's financial statement for its last completed fiscal year and such evidence of claims service activity as the department requires. Sufficient evidence shall be submitted with an initial application to establish that the state veterans organization, or its national organization, or both, has maintained a full-time service office at the regional office without interruption throughout 5 years out of the 10-year period immediately preceding such application. Subsequent applications must be accompanied by an affidavit by the adjutant or principal officer of such

state veterans organization stating that a full-time service office was maintained at the regional office by such state veterans organization, or by such state organization and its national organization, for the entire 12-month period for which application for a grant is made.

(4) The board may promulgate such rules as are necessary to administer this section.

History: 1971 c. 42; 1977 c. 29; 1983 a. 189; 1985 a. 332 s. 251 (3); 1989 a. 31, 56.

45.354 Grants to veterans organizations; contracts. The department may make grants or payments as authorized by the legislature to veterans organizations for services provided to persons who served on active duty in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces and, if such persons are deceased, to their unremarried surviving spouses and minor or dependent children, if the organization has a contract or agreement with the department.

History: 1981 c. 20; 1983 a. 27; 1985 a. 129.

45.355 Biennial study of fiscal needs for veterans' housing. Biennially the joint committee on finance shall study and review the fiscal requirements for veterans' housing loans and the condition of the veterans trust fund and thereupon shall make report thereon to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), with a view to recommending proper appropriations to adequately provide for such loans. All appropriations made by the legislature for veterans' housing loans pursuant to recommendations so made by the joint committee on finance shall be from the veterans trust fund or the general fund or both, as the needs may require.

History: 1981 c. 20; 1987 a. 186.

45.36 Release of information and records by the department of veterans affairs and county veterans' service offices. (1) DEFINITIONS. In this section:

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

(b) "Duly authorized representative" means any person authorized in writing by the veteran to act for the veteran, or a legally constituted representative if the veteran is incompetent or deceased. Where for proper reason no representative has been or will be appointed, the veteran's spouse, an adult child, or, if the veteran is unmarried, either parent shall be recognized as the duly authorized representative.

(c) "Service office" means a county veterans' service office.

(2) **SEPARATION DOCUMENTS.** Separation documents and copies thereof evidencing service in the armed forces of the U.S. are confidential and privileged. Examination of such records in the possession of the department or service office will be limited to authorized employes of the department or service office and information entered thereon will be disclosed only to veterans and their duly authorized representatives or to interested governmental agencies for the purpose of assisting veterans and their dependents to obtain the rights and benefits to which they may be entitled.

(3) **U.S. DEPARTMENT OF VETERANS AFFAIRS RECORDS.** Records and papers in the possession of the department or service office which are released to the department or service office by or from the U.S. department of veterans affairs or which contain information provided by the U.S. department of veterans affairs are confidential. Release of information from such records or papers may be made only pursuant to regulations of the U.S. department of veterans affairs.

(4) **INVESTIGATION.** All reports of investigation made by employes of the department or at the direction of the department for official departmental purposes are only for the use

of the secretary and staff. Materials and information which disclose the investigative techniques of the department or the identity of confidential informants and material received in confidence by representatives of the department may not be released.

(5) DISCLOSURE OF MONETARY BENEFITS. The department shall disclose, to any person who requests, the amount of any grant or loan made by the department to any applicant. A person seeking such information shall be required to sign a statement setting forth the person's name, address and the reason for making the request and certifying that the person will not use the information obtained for commercial or political purposes.

(5m) DISCLOSURE OF LOAN STATUS INFORMATION. The department may disclose to a consumer reporting agency, as defined in 15 USC 1681a (f), the current repayment status of, the balances due on, and other relevant information pertaining to department loans that is readily accessible from current department computer tapes on any loans on which balances are due and owing the department. The department may charge consumer reporting agencies requesting these computer tapes an amount sufficient to cover all the costs of preparation and delivery of the tapes.

(6) DISCLOSURE OF OTHER INFORMATION. Except as provided in subs. (2) to (5), all files, records, reports, papers and documents pertaining to applications for benefits from the department, and information contained therein, shall only be released by the department or service office pursuant to rules of the department. The rules must provide for the furnishing of information required under sub. (5m) and for official purposes by any agency of the U.S. government, any agency of this state, any law enforcement or public welfare agency of any Wisconsin county, or by members of the state senate and assembly, and will otherwise provide for release of personal information pertaining to or contained in any application for benefits, whether pending or adjudicated, only where authorized in writing by the applicants or where necessary to assist applicants in securing veterans benefits to which they may be entitled or where necessary for the efficient management of loans made by the department.

History: 1971 c. 198; 1983 a. 189; 1985 a. 29 s. 3200 (23); 1987 a. 403 s. 255; 1989 a. 31, 56.

45.365 Wisconsin veterans home; management. (1) (a) The department of veterans affairs, hereafter in this section and in s. 45.37 referred to as the department, shall operate and conduct the Wisconsin veterans home at King, hereafter in this section and in s. 45.37 referred to as the home, and employ a commandant and the officers, nurses, attendants and other personnel necessary for the proper conduct of the home. In compliance with the compensation plan established pursuant to s. 230.12 (3), it may recommend to the director of personnel charges for meals, living quarters, laundry and other services furnished to employes and members of the employes' family maintained as such. Complete personal maintenance and medical care to include programs and facilities which promote comfort, recreation, well-being or rehabilitation, shall be furnished all members under the policy of the department.

(b) All money received in reimbursement for services to institutional employes under par. (a) or in payment for meals served to guests at the institution shall be accumulated in an account named "employe maintenance credits" and shall be paid into the general fund within one week after receipt and credited to the appropriation under s. 20.485 (1) (gk).

(d) The home shall include a geriatric evaluation, research and education program. The initial program staff shall be funded by s. 20.485 (1) (fa), and additional staff may be

funded only by s. 20.485 (1) (hm), (j) and (mj), until July 1, 1989. On and after July 1, 1989, the entire program staff shall be funded by s. 20.485 (1) (hm), (j) and (mj).

(2) The department may acquire, by gift, purchase or condemnation, lands necessary for the purposes of the home. Title thereto shall be taken in the name of this state and shall be held by and for the uses and purposes of said home so long as used for the present objects and purposes thereof. No payment shall be made out of the state treasury or otherwise for any such land until the title has been examined and approved by the attorney general. Every such deed of conveyance shall be immediately recorded in the office of the proper register of deeds and thereafter filed with the secretary of state.

(2a) The department may use moneys appropriated pursuant to s. 20.485 (1) (h) to purchase, erect, construct or remodel buildings, and to provide additions and improvements thereto, and to provide equipment therefor and to provide materials, supplies and services necessary for the purposes of the home, and for such expenses as may be necessary and incidental to acquisition of property pursuant to s. 45.37 (10) and (11).

(2b) The department may accept gifts, bequests, grants or donations of money or of property from private sources to be administered by the department for the purposes of the home. All moneys so received shall be paid into the general fund and are appropriated therefrom as provided in s. 20.485 (1) (h), except that gifts or grants received specifically for the purposes of the geriatric program at the home are appropriated as provided in s. 20.485 (1) (hm). The department shall not apply to the gifts and bequests fund interest on certificate of savings deposits for those members who do not receive maximum monthly retained income. The department shall establish for such persons upon their request individual accounts with savings and interest applied pursuant to such member requests.

(2m) (a) The department may enter into agreements for furnishing and charging for water and sewer service from facilities constructed at and for the home to public and private properties lying in the immediate vicinity of the home.

(b) Agreements under this section shall be drafted to hold harmless the department, to require all expense thereof to be paid by the applicant, and to be terminable by the department when other water and sewer services become available to the applicant.

(3) The commandant and employes designated by the commandant may summarily arrest all persons within or upon the grounds of the home who are guilty of any offense against the laws of this state or the rules and regulations governing the home. For this purpose the commandant and deputies have the power of constables.

(5) The fire department at the home in response to emergency fire calls may make runs and render fire fighting service beyond the confines of the home.

(6) The home is subject to ch. 150.

History: 1971 c. 270 s. 104; 1973 c. 113; 1973 c. 333 s. 201m; 1975 c. 39; 1977 c. 29; 1977 c. 196 s. 131; 1981 c. 20; 1985 a. 29; 1989 a. 56.

45.37 Who are eligible to membership. (1) **GENERAL STATEMENT.** Within the limitations of the facilities of the home, the department may admit to membership in the home persons who meet the qualifications set forth in this section.

(1a) DEFINITION OF VETERAN. "Veteran" as used in this section means any person who served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces who was entitled to receive the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961,

the Vietnam service medal established by executive order 11231 on July 8, 1965, the navy expeditionary medal or the marine corps expeditionary medal or who served in Grenada, Lebanon or a Middle East crisis under s. 45.34 or any person who served for at least one day during a war period, as defined in s. 45.35 (5) (a) to (g) or under section 1 of executive order 10957, dated August 10, 1961, and who was officially reported missing in action, killed in action or who died in service, or who was discharged under honorable conditions therefrom after 90 days or more of active service, or if having served less than 90 days was honorably discharged for a service-connected disability or for a disability subsequently adjudicated to have been service connected, or who died as a result of service-connected disability.

(2) **BASIC ELIGIBILITY REQUIREMENTS.** A veteran may be admitted to the home if the veteran:

(a) *Residence.* Was a resident of this state at the time of entering service with the armed forces and is a resident of this state on the date of application for membership. Residence may not be initiated by residence in a U.S. department of veterans affairs facility.

(b) *Disability test.* Is permanently incapacitated due to physical disability or age from following any substantially gainful occupation.

(c) *Age.* Is 50 years of age or over.

(d) *Crimes.* Has not been convicted of a felony or of a crime involving moral turpitude or, if so, has produced sufficient evidence of subsequent good conduct and reformation of character as to be satisfactory to the department.

(e) *Chronic ailments.* Is not a chronic alcoholic, drug addict, psychotic or active tuberculosis case, unless the department determines that the home is capable of providing satisfactory care for the person.

(f) *Assets.* Reports or has total assets of less than the maximum permitted under ss. 49.45 and 49.46 and rules promulgated thereunder, unless prior to admission to the home the applicant turns over all assets in excess of the maximum to the department in prepayment for care and maintenance actually provided by the home during the period of residence. Property or any interest in property conveyed or disposed of by the applicant within 2 years immediately prior to application for admission by gift or for less than adequate consideration shall be considered assets upon admission to the extent of the value of the gift or to the extent consideration therefor was inadequate unless such assets were conveyed to the state or unless it is determined by the department that the conveyance or disposal of the assets had no relation to prospective entrance into the home. All assets turned over to the department shall be converted to cash as soon as practicable after the applicant is admitted to membership but, if the applicant's homestead is occupied by the applicant's legal dependents as their sole residence, the department shall make the homestead and household furniture and fixtures available to them for as long as it is so occupied, and the legal dependents shall be responsible for all expenses incidental to the occupancy and use. If expenses incidental to the occupancy and use are not paid by the legal dependents, including without limitation because of enumeration, real estate taxes, special assessments, insurance premiums, mortgage instalment payments, and payment for repairs, in its sole discretion the department may pay such expenses from the appropriation in s. 20.485 (1) (h).

(g) *Satisfaction of lien.* If a member whose homestead has not been sold and whose legal dependents are occupying such homestead dies, the department shall quitclaim its interest in such homestead to such legal dependents either upon payment to the department of an amount equal to all expendi-

tures made by it on such homestead pursuant to par. (f) or upon execution by such legal dependents of a promissory, instalment payment note, to the department in such amount within 6 months after the member's death. Such note shall bear interest at the rate of 7% per year on unpaid balances of principal and shall be secured by a real estate mortgage on such homestead. Any quitclaim deed executed by the department under this subsection shall include household furniture and furnishings in the homestead. If such payment is not made or such note and mortgage executed within 6 months of the member's death, such member's legal dependents shall be divested of all right, title and interest in and to such homestead.

(3) **EXCEPTIONS TO THE BASIC ELIGIBILITY REQUIREMENTS.** (a) *Under 50 years of age.* A disabled veteran under 50 years of age, if otherwise qualified, may be admitted if unable to secure adequate care from the federal government.

(b) *Nonresident.* A veteran who was not a resident of this state at the time of enlistment or induction into service but who is otherwise qualified for membership may be admitted if the veteran has been a resident of this state for the 10 years next preceding the date of application.

(4) **ADMISSION PRIORITIES.** (a) *Order of eligibility of veterans.* Applications except in cases where there is an immediate need for physical care or economic assistance shall be passed upon in order of priority in point of time of commencement of the military service upon which the privilege of membership in the home is based.

(b) *Basis for eligibility of nonveterans.* Spouses, surviving spouses and parents derive their eligibility from the eligibility of the veteran upon whose service it is based. Surviving spouses and parents of eligible veterans shall not be eligible except for those admitted prior to May 5, 1976 or unless the home's overall occupancy level is below an optimal level as determined by the board.

(c) *Order of priority.* The order of priority for admission to the home shall be as follows:

1. Eligible veterans shall have 1st priority;
2. Spouses of eligible veterans shall be given 2nd priority;
3. Surviving spouses of eligible veterans shall be given 3rd priority;
4. Parents of eligible veterans shall be given 4th priority;
5. The department may deviate from this sequence upon order of the board in order to prevent the separation of a family unit of husband and wife.

(5) **ADDITIONAL ELIGIBILITY REQUIREMENTS OF A SPOUSE OF A VETERAN.** A spouse of an eligible veteran is eligible only if the spouse meets the requirements of sub. (2) (d) to (f) and if:

(a) The veteran is a member, or if not a member is institutionalized elsewhere because of physical or mental disability, and the spouse had lived with such veteran not less than one year immediately before making application for membership.

(b) Separation from such spouse necessitated by reason of employment, hospitalization or because of a physical or mental disability of either spouse shall not be taken to constitute an interruption of such one-year period.

(c) A spouse of an eligible veteran by virtue of a bona fide marriage invalidly entered into but validated prior to application for admission shall, for the purpose of this subsection and sub. (6), be considered married to such eligible veteran from the date such invalid marriage was entered into.

(6) **ADDITIONAL ELIGIBILITY REQUIREMENTS OF A SURVIVING SPOUSE.** The surviving spouse of a veteran who was a resident of this state at the time of the veteran's death, is eligible if the surviving spouse meets the requirements of sub. (2) (d) to (f) and if the surviving spouse:

(a) Was married to and living with the deceased veteran not less than one year immediately prior to the death of the veteran, or was married to the veteran at the time the veteran entered the service and was widowed by the death of the veteran in the service or as a result of physical disability incurred during such service, or the period during which the surviving spouse was married to and lived with the deceased veteran plus the period of widowhood is one year or more, or if the surviving spouse was married to and living with the veteran less than one year and a child was born of the marriage; and

(b) Has not remarried; and

(c) Is 45 years of age or over on the date of application; and

(d) Is physically disabled; and

(e) Is unable adequately to care for himself or herself and lacks adequate means of support; and

(f) Has been a resident of this state for the 5 years immediately preceding the date of application for membership.

(7) ADDITIONAL ELIGIBILITY REQUIREMENTS OF PARENTS. The parent of a veteran who was a resident of this state at the time of the veteran's death or, the parent of a living veteran who is eligible for membership, is eligible if the parent meets the requirements of sub. (2) (d) to (f) and if the parent:

(a) Has reached 60 years of age; and

(b) Has been a resident of this state for the 5 years next preceding the date of application for membership; and

(c) Is physically disabled, unable adequately to care for himself or herself and lacks adequate means of support.

(8) EFFECT OF CHANGE IN STANDARDS. The members of the home on July 7, 1949 shall not be required to requalify for membership because of changes made in eligibility standards unless they are subsequently discharged and later apply for reentry into the home, or unless the financial or physical status of any member has changed or improved so that the member would no longer be eligible for admission under the standards applicable at the time of admission.

(9) MEMBER INCOME RETENTION AND PAYMENT. (a) *Maximum retention.* Each member of the home admitted to the home prior to January 1, 1974, may either elect to retain from the member's monthly income an amount not exceeding the greater of the maximum income allowed under ss. 49.45 and 49.46 and rules promulgated thereunder or \$40.50, plus an amount equal to the payment made to the member or which would otherwise be due for services rendered the home under its work therapy program and income received from the sale of products or services through the hobby shop, and shall pay all of the member's remaining income into the general fund of the state. Each member of the home admitted to the home on or after January 1, 1974, may retain monthly income in an amount not exceeding the maximum income allowed under ss. 49.45 and 49.46 and rules adopted thereunder and shall pay all remaining income into the general fund of the state.

(b) *Married couples.* If husband and wife are both members, their monthly incomes shall be combined before computing the amount each will be permitted to retain under par. (a).

(c) *Work therapy program compensation.* The board shall establish a pay plan for compensation of members for services rendered to the home under its work therapy program. A member admitted to the home prior to January 1, 1974, who is participating in such program and whose monthly income is insufficient to permit the member to retain the amount set forth in par. (a), shall receive direct payment thereunder from the department on the basis of the amount due for services or on the basis of the difference between the member's total monthly income and the amount the member

would be permitted to retain under par. (a) if the member's income was sufficient to permit maximum retention, whichever is less. A member admitted to the home after December 31, 1973, may receive payment for services only if the payment conforms with the requirements in ss. 49.45 and 49.46 and rules promulgated thereunder.

(d) *Member income payments.* Payments of the amounts due the state shall be made at such time and in such amounts as the board provides by rule.

(e) *U.S. department of veterans affairs payments.* Payment of amounts due the state shall be made to the fullest extent possible from sources of income other than pension or compensation paid by the U.S. department of veterans affairs.

(f) *Remission of income.* The department may remit, from amounts paid by a member, such sums monthly as it deems necessary for the care of nonmember dependents.

(g) *"Income" defined.* "Income", in this section, means money, property or anything of monetary value received from any source to which a member may become entitled subsequent to admission, including without limitation because of enumeration: all pensions from state, federal or private sources, annuities, social security payments, railroad retirement, public or private retirement, compensation, wages, salary, maintenance payments, rents, interest, dividends, profits, return on investment, moneys received for loss, damage or injury, awards, gifts, devises, bequests and hereditaments, inheritances, discoveries, powers and insurance benefits but shall not include devises, bequests, hereditaments and inheritances from a member's spouse, payment to a member for services rendered to the home under its work therapy program or income received by a member from the sale of products or services through the hobby shop. Any renunciation, disclaimer or transfer of income by a member shall be void.

(h) *Home exchange.* The operation of the home exchange, including the operation of the hobby shop for the sale of products made by all members, shall be conducted under the supervision of the department.

(9a) ALTERNATIVE METHOD OF PAYMENT. If the pension payments to a member are suspended because the member's estate or account exceeds the limit established by the U.S. department of veterans affairs, the department may, in lieu of the procedures set forth in sub. (9), direct that the per diem cost for the care of the member be charged to the estate or account of the member.

(9b) ASSESSMENT OF MEMBERS' ACCOUNTS. If the assets of a member admitted to the home after December 31, 1973, exceed the asset maximums permitted under ss. 49.45 and 49.46 and rules promulgated thereunder, the amount in excess of such maximum shall be paid into such member's prepaid care account by the department, but in accord with the above statutes and rules.

(9c) HANDLING OF MEMBERS' ACCOUNTS. All funds held by the home for the members not needed by the members for their own use shall be deposited in a credit union, savings and loan association or bank in the form of certificates of deposit in the name of the home, and the interest therefrom shall be paid annually into the gifts and bequests fund of the home for the purposes for which that fund exists.

(9d) MEDICAL ASSISTANCE PAYMENTS. All moneys received under title XIX of the social security act for the care of members shall be transferred to the appropriation under s. 20.485 (1) (gk).

(10) CONVEYANCE OF PROPERTY; DESCENT. (a) Except as otherwise provided in this subsection, the application and admission of any applicant admitted under this section

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before, on or after July 31, 1975 shall constitute a valid and binding contract between such member and the department. If a member dies leaving legal dependents or a will the existence of which is made known to the commandant of the home within 60 days of such member's death, the member's property shall constitute a part of the member's estate, except that personal effects of nominal monetary value of such a deceased member who is not survived by a member spouse may be distributed by the commandant to surviving relatives of such member who request such personal effects within a reasonable time after such member's death. For the purposes of this section the spouse of the member shall be deemed to be such member's legal dependent.

(c) The department may manage, sell, lease or transfer property descending to the state pursuant to this section or conveyed to it by members, defend and prosecute all actions concerning it, pay all just claims against it, and do all other things necessary for the protection, preservation and management of such property. All expenditures necessary for the execution of functions under this paragraph or sub. (11) shall be made from the appropriation in s. 20.485 (1) (h).

(d) A person who at the time of death is a member of the home is a resident of Waupaca county for the probate of the person's will and issuance of letters testamentary and the administration of the estate.

(11) **DISPOSITION OF PROPERTY DESCENDING TO STATE.** If a member dies without legal dependents and without leaving a will the existence of which is made known to the commandant of the home within 60 days of the member's death, the member's property, except personal effects of nominal monetary value which are distributed by the commandant at the commandant's discretion to surviving relatives of the member who request such personal effects immediately after the member's death, shall be converted to cash and turned over by the commandant of the home to the state treasurer to be paid into the appropriation under s. 20.485 (1) (h), without administration. The amount is subject to refund within 6 years to the estate of a veteran if it is subsequently discovered that the veteran left a will or to any creditor or legal dependent of the veteran who establishes right to the fund or property or any portion thereof. The attorney general upon being satisfied that a claim out of such funds or property is legal and valid may certify the same to the department which shall pay the same out of such funds or property, except that payment of claims for a member's funeral and burial expenses may not exceed a total of \$655 including any amount allowed by the United States for the member's funeral and burial and the right for burial and interment provided in sub. (15) (a).

(12) **CERTIFICATES OF LIEN.** All certificates of lien filed prior to July 31, 1975 are void and shall be released by the department upon request without consideration.

(14) **POWERS OF COMMANDANT OVER PERSONAL FUNDS OF MEMBERS.** The commandant of the home may receive, disburse and account for personal funds of members of the home, received from any source other than state funds or payments received under Title XVI of the federal social security act, under policies adopted by the board of veterans affairs.

(15) **ELIGIBILITY FOR BURIAL AND INTERMENT AT THE HOME.** (a) A veteran who at the time of death is a resident of this state is eligible for burial and interment at the cemetery of the home known as the "Wisconsin Veterans Memorial Cemetery". Cost of preparing grave and erection of marker shall be paid from the appropriation made by s. 20.485 (1) (gk).

(b) Burial shall be provided in the cemetery of the home for any spouse, surviving spouse or parent of a veteran where such person at the time of death was a member of the home.

Burial shall also be provided in the cemetery of the home for the parent or surviving spouse of a veteran who is not a member when, within 6 months after the veteran's burial in the cemetery of the home, application is made to the department for permission to be buried therein at the person's own expense. The surviving spouse of the veteran shall have the privilege of selecting a lot next to the veteran if available. Permission shall be given by the department for a period of one year from date of granting, but may be extended, on request, for additional one-year periods.

(c) Expenses incident to the burial at the home of a member shall be paid from the estate of the decedent, except that if there is no estate or the estate is insufficient, the expense of burial, or necessary part thereof, shall be paid from the appropriation under s. 20.485 (1) (gk) and the amount expended therefor shall not exceed \$400.

(16) **PREPAID CARE ACCOUNTS.** (a) Excess assets paid to the department under sub. (2) (f) and the interest therefrom and all income paid into the general fund of the state under sub. (9) and the interest therefrom shall constitute a member's prepaid care account.

(b) The actual cost of each member's care and maintenance at the home shall be computed monthly, and paid from the member's prepaid care account balance into the appropriation under s. 20.485 (1) (gk).

(c) In the event a member's prepaid care account balance is insufficient to pay the full monthly cost of care and maintenance, payment shall be made as provided in par. (b) to the extent of the prepaid care account balance, and any deficit resulting shall be carried forward and charged against new accruals to such member's prepaid care account which result from liquidation of assets or income adjustment payments.

(d) Balances in a member's prepaid care account shall be considered prepayment for complete personal maintenance and medical care of the member for life to be provided by the department and shall not be considered assets of the member.

(e) If a member is discharged from the home all excess assets not converted to cash or contracted to be sold shall be returned to the member and the department shall quitclaim its interest in any homestead turned over to the department by the member as excess assets and not converted to cash or contracted to be sold, and there shall be refunded to the member an amount equal to the unused balance remaining in the prepaid care account and the net proceeds ultimately realized from the sale of assets contracted to be sold on date of discharge, less actual cost of care and maintenance for month of discharge not paid to date of discharge.

(f) Upon death of a member who dies leaving legal dependents or a will the existence of which is made known to the commandant of the home within 60 days of such member's death, any unexpended balance representing the member's contribution of excess assets remaining in the prepaid care account and any excess assets turned over to the department and not converted to cash, including the member's homestead, shall constitute a part of such member's estate except that a homestead conveyed to the department jointly by the decedent and member spouse which has not been sold on the date of death shall become a part of the surviving spouse's prepaid care account. Upon the death of a member who dies without legal dependents and without leaving a will the existence of which is made known to the commandant of the home within 60 days after such member's death, any unexpended balance representing the member's contribution of excess assets remaining in the prepaid care account and any excess assets turned over to the department and not converted to cash, including the member's homestead, shall be converted to cash and all such amounts shall be turned

over by the commandant of the home to the state treasurer to be paid into the appropriation under s. 20.485 (1) (h), without administration. The amount is subject to refund within 6 years to the estate of a member if it is subsequently discovered that such member left a will or to the legal dependent of the veteran who establishes right to the fund or property or any portion thereof. The attorney general upon being satisfied that a claim out of such funds or property is legal and valid may certify the same to the department which shall pay the same out of such funds or property.

(g) All amounts in a deceased member's prepaid care account representing income paid into the general fund of the state under sub. (9) shall not be considered assets of the decedent for any purpose.

(17) ADDITIONAL ELIGIBILITY REQUIREMENTS. Any person admitted to the home after December 31, 1973, shall meet during residence at the home the eligibility requirements under ss. 49.45 and 49.46 and rules promulgated thereunder except that:

(a) Persons with sufficient income and resources to meet the expenses of care for one or more months may be admitted to or remain in membership at the home but shall apply income and resources to costs to the extent required by ss. 49.45 and 49.46 and rules promulgated thereunder; or

(b) Persons who meet all the requirements of this section but whose degree of physical disability does not meet the minimum requirements in ss. 49.45 and 49.46 and rules promulgated thereunder may be admitted to or remain in membership at the home but shall apply income and resources to costs to the extent required by ss. 49.45 and 49.46 and rules promulgated thereunder.

History: 1971 c. 40, 42, 198; 1973 c. 90, 147; 1973 c. 333 ss. 84, 85, 86, 201m; 1975 c. 39, 94, 199, 224; 1977 c. 29; 1977 c. 105 s. 59; 1977 c. 237, 309; 1977 c. 418 s. 924 (50); 1977 c. 447 s. 206; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221; 1981 c. 20 ss. 733m, 2202 (55) (a); 1981 c. 390; 1983 a. 27, 368, 430; 1985 a. 29, 135; 1985 a. 332 s. 251 (1); 1987 a. 27, 399; 1989 a. 31, 56.

An application for admission to the home constitutes a contract for purposes of 45.37 (9), and a resident must surrender property only as called for by the statute at the time of application, not as later amended. Estate of Nottingham, 46 W (2d) 580, 175 NW (2d) 640

45.38 Department, additional powers to provide structures, facilities and permanent improvements. (1) In this section unless the context requires otherwise:

(a) "Existing building" in relation to any conveyance, lease or sublease made under sub. (2) (a) 1, 2 and 3 means all detention, treatment, administrative, recreational, infirmary, hospital, vocational and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants and such other buildings, structures, facilities and permanent improvements as in the judgment of the board are needed or useful for the purposes of the department, and all equipment therefor and all improvements and additions thereto which were erected, constructed or installed prior to the making of such conveyance, lease or sublease.

(b) "New building" in relation to any conveyance, lease or sublease made under sub. (2) (a) 1, 2 and 3 means all detention, treatment, administrative, recreational, infirmary, hospital, vocational and academic buildings; all dormitories and cottages; all storage facilities, heating plants, sewage disposal plants, and such other buildings, structures, facilities and permanent improvements as in the judgment of the board are needed or useful for the purposes of the department, and all equipment therefor and all improvements and additions thereto which are erected, constructed or installed after the making of such conveyance, lease or sublease.

(c) "Nonprofit corporation" means a nonstock, nonprofit corporation organized under ch. 181 or any law amendatory thereof or supplemental thereto.

(2) The department shall have and may exercise the powers and duties provided in this section.

(a) In order to provide new buildings and to enable the construction and financing thereof, to refinance indebtedness hereafter created by a nonprofit corporation for the purpose of providing a new building or buildings or additions or improvements thereto which are located on land owned by, or owned by the state and held for, the department or on lands of the institutions under the jurisdiction of the department or by the nonprofit corporation, or for any one or more of said purposes, but for no other purpose unless authorized by law, the department has the following powers and duties:

1. Without limitation by reason of any other provisions of the statutes, the power to sell and to convey title in fee simple to a nonprofit corporation any land and any existing buildings thereon owned by, or owned by the state and held for, the department or of any of the institutions under the jurisdiction of the department for such consideration and upon such terms and conditions as in the judgment of the board are in the public interest.

2. The power to lease to a nonprofit corporation for a term or terms not exceeding 50 years each any land and any existing buildings thereon owned by, or owned by the state and held for, the department or of any of the institutions under the jurisdiction of the department upon such terms and conditions as in the judgment of the board are in the public interest.

3. The power to lease or sublease from such nonprofit corporation, and to make available for public use, any land or any such land and existing buildings conveyed or leased to such nonprofit corporation under subds. 1 and 2, and any new buildings erected upon such land or upon any other land owned by such nonprofit corporation, upon such terms, conditions and rentals, subject to available appropriations, as in the judgment of the board are in the public interest.

4. The duty to submit the plans and specifications for all such new buildings and all conveyances, leases and subleases made under this section to the department of administration and the governor, and when applicable under ch. 150, to the department of health and social services, for written approval before they are finally adopted, executed and delivered.

5. The power to pledge and assign all or any part of the revenues derived from the operation of any land or such new buildings as security for the payment of rentals due and to become due under any lease or sublease of such new buildings under subd. 3.

6. The power to covenant and agree in any lease or sublease of any land or new buildings made under subd. 3 to impose fees, rentals or other charges for the use and occupancy or other operation of such new buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

7. The power to apply all or any part of the revenues derived from the operation of any land or existing buildings to the payment of rentals due and to become due under any lease or sublease made under subd. 3.

8. The power to pledge and assign all or any part of the revenues derived from the operation of any land or existing buildings to the payment of rentals due and to become due under any lease or sublease made under subd. 3.

9. The power to covenant and agree in any lease or sublease made under subd. 3 to impose fees, rentals or other charges for the use and occupancy or other operation of any land or existing buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

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10. The power and duty, upon receipt of notice of any assignment by any such nonprofit corporation of any lease or sublease made under subd. 3, or of any of its rights under any such sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by such nonprofit corporation.

(b) The state shall be liable for accrued rentals and for any other default under any lease or sublease made under par. (a) 3, and may be sued therefor on contract as in other contract actions pursuant to ch. 775, except that it shall not be necessary for the lessor under any such lease or sublease or any assignee of such lessor or any person or other legal entity proceeding on behalf of such lessor to file any claim with the legislature prior to the commencement of any such action.

(c) Nothing in this section empowers the board or the department to incur any state debt.

(d) All powers and duties conferred upon the board or the department pursuant to this section shall be exercised and performed by resolution of the board. All conveyances, leases and subleases made pursuant to this section, when authorized pursuant to resolution of the board, shall be made, executed and delivered in the name of the department of veterans affairs and shall be signed by the director and sealed with the seal of the department.

(e) All laws, conflicting with any provisions of this section, are, insofar as they conflict with this section and no further, superseded by this section.

History: 1977 c. 29; 1979 c. 32 s. 92 (5).

45.396 Correspondence courses and part-time classroom study. (1) In this section, "part-time classroom study" means any of the following:

(a) Enrollment by a graduate student in courses for which no more than 8 semester or the equivalent trimester or quarter credits will be given upon satisfactory completion.

(am) Enrollment by a graduate student in courses that upon satisfactory completion will fulfill no more than the minimum semester or equivalent trimester or quarter credit requirements of the program or school in which the student is enrolled.

(b) Enrollment by any other eligible student in courses for which no more than 11 semester or the equivalent trimester or quarter credits will be given upon satisfactory completion.

(c) Study during a summer semester or session.

(2) Any veteran upon the completion of any correspondence course or part-time classroom study from an institution of higher education, as defined in s. 39.32 (1) (a), located in this state or from any public or private high school may be reimbursed in whole or in part for the cost of the course, including necessary textbooks, by the department upon presentation to the department of a certificate from the school indicating that the veteran has completed the course and stating the cost of the course and necessary textbooks and upon application for reimbursement completed by the veteran and received by the department no later than 60 days after the termination of the course for which the application for reimbursement is made. The department shall accept and process an application received more than 60 days after the termination of the course if the applicant shows good cause for the delayed receipt. The department may not require that an application be received sooner than 60 days after a course is completed. Benefits granted under this section shall be paid out of the appropriation under s. 20.485 (2) (vm).

(3) A veteran who is a resident of this state and otherwise qualified to receive benefits under this section may receive the benefits under sub. (2) upon the completion of any correspon-

dence courses or part-time classroom study from an educational institution outside this state which is accredited by the north central association of colleges and schools or, if outside the jurisdiction of that accrediting association, by an equivalent accrediting association, if any of the following applies:

(a) The part-time classroom study is not offered within 50 miles of the veteran's residence by any school or institution under sub. (2) and the educational institution from which the study is offered is located not more than 50 miles from the veteran's principal place of residence.

(b) The correspondence course is not offered in this state.

(4) Enrolled part-time classroom study or direct correspondence courses from a qualified educational institution may be authorized and the veteran reimbursed in whole or in part by the department when such courses are related to one's occupational, professional or educational objectives, and to the extent that payment or reimbursement is not available from any other sources, or, in cases where reimbursement is not specifically for fees and textbooks, to the extent that such reimbursement is insufficient to cover all educational costs.

(5) The reimbursement may not exceed the cost of tuition, fees and textbooks and shall also be limited to a maximum of \$300 per course and \$1,100 per fiscal year.

(5m) (a) No veteran or eligible dependent who has obtained a master's degree or its equivalent is eligible for grants under this section.

(b) No veteran or eligible dependent who has obtained at least a baccalaureate degree or its equivalent but not a master's degree or its equivalent is eligible for grants offered under this section if the person has remaining U.S. department of veterans affairs education benefits.

(c) For the purpose of this section any student who has received a baccalaureate degree shall be deemed to be a graduate student whether he or she is taking graduate or undergraduate courses.

(6) The department may not make a grant to a person under this section if it receives a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

History: 1971 c. 42; 1971 c. 125 s. 522 (1); 1971 c. 154, 198, 307; 1975 c. 39, 199, 224, 422; 1979 c. 34 ss. 819b, 2102 (56) (a); 1981 c. 20; 1983 a. 481, 503, 538; 1985 a. 29, 129; 1987 a. 27, 242; 1989 a. 31, 56.

45.397 Retraining grant program. (1) GRANT AMOUNT AND APPLICATION. The department may grant a veteran not more than \$3,000 for retraining to enable the veteran to obtain gainful employment. The department shall determine the amount of the grant based on the veteran's financial need. A veteran may apply for a grant to the county veterans' service officer of the county in which the veteran is living.

(2) ELIGIBILITY. The department may make a grant under this section if all of the following apply:

(a) The veteran is enrolled or accepted for enrollment in an institution of higher education, as defined in s. 39.32 (1) (a), in the state.

(b) The veteran meets the financial assistance criteria established under sub. (3) (c).

(c) The veteran is unemployed or has received a notice of termination of employment.

(d) The department determines that the veteran's proposed program will provide retraining that could enable the veteran to find gainful employment.

(3) RULES. The department shall promulgate rules for the distribution of grants under this program, including all of the following:

(a) Standard budgets for single and married veterans.

(b) Selection procedures.

- (c) Uniform need determination procedures.
- (d) Application procedures.
- (e) Other provisions the department deems necessary to assure uniform administration of this program.

(4) **ANNUAL EXPENDITURE.** The total amount of grants made under this section may not exceed \$70,000 in any fiscal year, beginning with the 1990-91 fiscal year.

History: 1989 a. 31.

45.42 Burial places compiled. (1) The department may compile a record of the burial places within the state of persons who served in the U.S. armed forces in time of war as defined in s. 45.35 (5) (a) to (g) or in Grenada, Lebanon or a Middle East crisis under s. 45.34, or under section 1 of executive order 10957, dated August 10, 1961, or whose service entitled them to receive the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, the Vietnam service medal established by executive order 11231 on July 8, 1965, the navy expeditionary medal or the marine corps expeditionary medal. The record, so far as practicable, may indicate the name of each person; the service in which engaged; the appropriate designation of armed forces unit; the rank and period of service; the name and location of the cemetery or other place in which the body is interred; the location of the grave in the cemetery or other place; and the character of headstone or other marker, if any, at the grave.

(2) The department may have blank forms prepared whereby the information required for the record may be transmitted to it and may distribute the forms to county veterans' service officers. The county veterans' service officer within whose county and cemetery or burial place is located in which are interred the bodies of persons who served in the U.S. armed forces in time of war as defined in s. 45.35 (5) (a) to (g) or in Grenada, Lebanon or a Middle East crisis under s. 45.34 or under section 1 of executive order 10957, dated August 10, 1961, or whose service entitled them to receive the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, the Vietnam service medal established by executive order 11231 on July 8, 1965, the navy expeditionary medal or the marine corps expeditionary medal shall submit the facts required for such record to the department on the forms provided by it, if so requested by the department.

History: 1977 c. 29; 1983 a. 430; 1987 a. 399; 1987 a. 403 s. 255; 1989 a. 31.

45.43 County veterans' service officer. (1) **ELECTION.** (a) Except as provided under par. (b), the county board shall elect a county veterans' service officer who shall be a Wisconsin resident who served under honorable conditions in the armed forces of the United States in time of war as set forth in s. 45.35 (5) (a) to (g) or in Grenada, Lebanon or a Middle East crisis under s. 45.34.

(b) In counties with a county executive or county administrator, the county executive or county administrator shall appoint and supervise a county veterans' service officer who shall have the qualifications prescribed under par. (a). The appointment is subject to confirmation by the county board unless the county board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.07 (20) or ch. 63.

(2) **TERM.** A county veterans' service officer elected under sub. (1) (a) shall serve until the first Monday in January of the 2nd year subsequent to the year of his or her election, and, if reelected, shall continue to serve unless removed under s. 17.10 (2). All county veterans' service officers who have been

reelected prior to May 18, 1967, may continue to serve unless removed under s. 17.10 (2).

(3) **SALARY.** The salary of the county veterans' service officer shall be fixed by the county board prior to or at the time of the service officer's election and annually thereafter.

(4) **MILWAUKEE COUNTY.** In counties having a population of 500,000 or more such officer shall be appointed subject to ss. 63.01 to 63.17.

(5) **DUTIES.** The county veterans' service officer shall:

(a) Advise persons living in the service officer's county who served in the U.S. armed forces regarding any benefits to which they may be entitled or any complaint or problem arising out of such service and render to them and their dependents all possible assistance.

(b) Make such reports to the county board as the county board requires.

(c) Cooperate with federal and state agencies which serve or grant aids or benefits to former military personnel and their dependents.

(d) Furnish information about veterans' burial places within the county as required by s. 45.42 (2).

(6) **OFFICE SPACE AND ASSISTANTS.** (a) The county board shall provide the county veterans' service officer with office space, clerical assistance and any other needs which will enable the officer to perform the duties under sub. (5).

(b) Except as provided under par. (c), the county board may appoint assistant county veterans' service officers who shall be persons who served under honorable conditions in the U.S. armed forces in time of war as set forth in s. 45.35 (5) (a) to (g) or in Grenada, Lebanon or a Middle East crisis under s. 45.34.

(c) In any county with a county executive or county administrator, the county veterans' service officer may appoint assistant county veterans' service officers who shall have the qualifications prescribed under par. (b).

(7) **GRANTS TO COUNTIES.** (a) Each county may annually apply to the department for a grant for the improvement of service to former military personnel of the county through the county veterans' service office. The county veterans' service officer of any county applying for the grant shall enter into an agreement with the department. The agreement shall state the goals and objectives to be attained by the county veterans' service office during the remainder of the year covered by the grant application. The department shall prepare the basic form of this agreement in consultation with the county veterans' service officers association and provide a copy and an explanation of that agreement to each county veterans' service officer. The department shall develop reasonable budget and operating standards to assure improved services, but full operating control of the county office shall be left to each county.

(b) The department shall award a grant not exceeding \$5,000 annually to a county that meets the standards developed under this subsection and employs a county veterans' service officer who, if chosen after August 9, 1989, is chosen from a list of candidates who have taken a civil service examination for the position of county veterans' service officer developed and administered by the division of merit recruitment and selection in the department of employment relations, or is appointed under a civil service competitive examination procedure under ch. 63 or s. 59.07 (20). An eligible county initially applying for a grant after August 9, 1989, shall be eligible for an initial grant for the first year not exceeding \$1,000, an annual grant for the next year not exceeding \$3,000 and any subsequent annual grant not exceeding \$5,000.

45.43 VETERANS

(c) Notwithstanding par. (b), an eligible county with a part-time county veterans' service officer shall be eligible for an annual grant not exceeding \$500.

History: 1973 c. 90; 1977 c. 196 s. 130 (2); 1983 a. 27 ss. 947, 2200 (15); 1983 a. 430; 1985 a. 29; 1987 a. 399; 1989 a. 31, 56.

County veterans' service officer has no duty to transport disabled veterans to hospital. 67 Atty. Gen. 207.

45.48 Veterans' papers, medals, etc., as security. (1) It shall be unlawful for any person to receive or accept as a security or to withhold from a veteran or honorably discharged soldier, sailor or marine any discharge paper, citation, warrant, medal, badge or evidence upon which such veteran is entitled to certain rights, as a veteran under the laws of the United States or of this state, and any transfer of the same during the life of the veteran upon a consideration or otherwise shall be null and void, and the refusal or wilful neglect of any person to return or deliver upon demand, any such discharge, citation, warrant, medal, badge or evidence aforesaid shall be deemed a misdemeanor.

(2) Any person who violates this section shall be fined not more than \$100 or imprisoned not more than 6 months, or both.

45.49 Memorial day; veterans to be given leave of absence on. (1) The head of every department of the state government and of every court of the state, every superintendent or foreman on the public works of the state, every county officer, and the head of every department or office in any town, village, city, or other political subdivision, shall give a leave of absence with pay for 24 hours on the last Monday in May of each year, which shall be the day of celebration for May 30, to every person in the employ of the state or any county, town, village or city therein, who has at any time served in and been honorably discharged from the army, navy or marine corps of the United States. A refusal to give such leave of absence to one entitled thereto, shall constitute neglect of duty.

(2) In all cities, however organized, where the nature of the duties of the several departments of government of such cities is such as to necessitate the employment of members of such departments on Memorial day, the head of each such department shall arrange and assign such necessary work in such a manner as to permit the largest possible numbers of employes of such department to be off duty either the whole or part of Memorial day.

History: 1971 c. 226; 1977 c. 187 s. 96; Stats. 1977 s. 757.16; 1983 a. 192 s. 256; Stats. 1983 s. 45.49.

45.50 Reemployment in civil employment after completion of military service. (1) (a) Any person who has enlisted or enlists in or who has been or is inducted or ordered into active service in the U.S. armed forces pursuant to the selective training and service act of 1940 or the national guard and reserve officers mobilization act of 1940, the selective service act of 1948 and any acts amendatory thereof or supplementary thereto or P.L. 87-117, and any person whose services are requested by the federal government for national defense work as a civilian during a period officially proclaimed to be a national emergency or a limited national emergency, who, in order to perform the training or service, has left or leaves a position, other than a temporary position, in the employ of any political subdivision of the state or in the employ of any private or other employer, shall be restored to such position or to a position of like seniority, status, pay and salary advancement as though service toward seniority, status, pay or salary advancement had not been interrupted by the absence; if:

1. The person presents to the employer evidence of satisfactory completion of the period of training or civilian service, or of discharge from the armed forces under conditions other than dishonorable;

2. The person is still qualified to perform the duties of such position;

3. The person makes application for reemployment and resumes work within 90 days after completion of the training or services, military or civilian, or was so discharged from the armed forces, or within 6 months after release from hospitalization for service-connected injury or disease;

4. The employer's circumstances have not so changed as to make it impossible or unreasonable to so restore the person; and

5. The military service was not for more than 4 years unless extended by law.

(b) In the event of any dispute arising under par. (a), the matter shall be referred to the department of industry, labor and human relations for determination except as the matters pertain to any classified employe of the state, in which case the matter shall be referred to the director of personnel. Orders and determinations of the department of industry, labor and human relations under this section may be reviewed in the manner provided in ch. 227.

(2) The service of any person who is or was restored to a position in accordance with sub. (1) shall be deemed not to be interrupted by the absence, except for the receipt of pay or other compensation for the period of the absence and he or she shall be entitled to participate in insurance, pensions, retirement plans or other benefits offered by the employer under established rules and practices relating to employes on furlough or leave of absence in effect with the employer at the time the person entered or was enlisted, inducted or ordered into the forces and service, and shall not be discharged from the position without cause within one year after restoration; and the discharge is subject to all federal or state law affecting any municipal or private employment; and subject to the provisions of contracts that may exist between employer and employe. Each county, town, city or village shall contribute or pay from September 16, 1940, all contributions of the employer to the applicable and existent pension, annuity or retirement system as though the service of the employe had not been interrupted by military service.

(3) In case any employer fails or refuses to comply with the provisions of subs. (1) and (2), any court of record whether created by general or special act in the proper county having jurisdiction of an action on contract for an amount exceeding \$500 may, upon the filing of a motion, petition or other appropriate pleading and on reasonable notice, which shall not be less than 10 days, to such employer by the person entitled to the benefits of such provisions, specifically require such employer to comply with such provisions, and, as an incident thereto, compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case and shall advance it on the calendar. No fees or court costs shall be taxed against the person so applying for such benefits. The place of the commencement of the action or proceeding hereunder against a private employer, and the trial or hearing thereof, shall be in any county in which the employment took place or in which such private employer maintains a place of business, and in all other cases shall be as provided in s. 801.50. No person who is appointed in the service of the state or of any county, city or village to fill the place of a person so entering the federal armed forces shall acquire permanent tenure during such period of replacement service.

(4) Any individual or employer aggrieved by the decision of the court provided in sub. (3) may appeal in accordance with the provisions of appealable orders referred to in chs. 808 and 809; and the employee need not file an appeal bond for the security for costs on said appeal.

(5) The restoration of classified employes of the state shall be governed by s. 230.32. The restoration of unclassified state employes shall be governed by this section.

History: 1971 c. 270 s. 104; Sup. Ct. Order, 67 W (2d) 773; 1977 c. 187 s. 135; 1977 c. 196 s. 131; 1981 c. 96; 1989 a. 56.

45.51 Employes or officers in military service. (1) The governing body of any county, town, city, village, school district or vocational, technical and adult education district may grant a leave of absence to any employe or officer who is inducted or who enlists in the U.S. armed forces for a period of military service of not more than 4 years unless such employe is involuntarily retained for a longer period. No salary or compensation of such employe or officer shall be paid, nor claim therefor exist during such leave of absence.

(2) The governing body may provide for safeguarding the reinstatement and pension rights, as herein limited, of any employe or officer so inducted or enlisted.

(3) No employe or officer who is appointed to fill the place of any employe or officer so inducted or enlisted shall acquire permanent tenure during such period of replacement service.

(4) If the leave of absence under sub. (1) is granted to an elected or appointed official or employe and the official or employe has begun federal service, a temporary vacancy exists and a successor may be appointed to fill the unexpired term of the official or employe, or until the official or employe returns and files election to resume the office if the date of the filing is prior to the expiration of the term. The appointment shall be made in the manner provided for the filling of vacancies caused by death, resignation or otherwise, except that no election need be held to fill a temporary vacancy. The appointee has all the powers, duties, liabilities and responsibilities and shall be paid and receive the compensation and other benefits of the office or position, unless otherwise provided by the governing body. Within 40 days after the termination of the federal service, the elected or appointed official or employe, upon filing with the clerk a statement under oath of termination and that the official or employe elects to resume the office or position, may resume the office or position for the remainder of the term for which elected or appointed. The person temporarily filling the vacancy shall thereupon cease to hold the office.

(6) In cities of the 3rd class with a commission plan of government, in case of temporary or permanent vacancies in the office of mayor, the vice mayor shall temporarily succeed to the office of mayor for the balance of the unexpired term for which the mayor was elected unless sooner terminated as provided in s. 17.035 (3). The temporary or permanent vacancy thereby created in the office of council member may thereupon be filled as provided in this section. The term of the person appointed temporarily to the office of council member shall not extend beyond the expiration of the term of the office vacated and the temporary term shall be vacated sooner as provided for in s. 17.035 (3).

History: 1971 c. 154; 1985 a. 135; 1989 a. 56.

45.52 Physical disability does not disqualify for public employment. A veteran, as defined under s. 45.37 (1a), who has suffered a physical disability as a direct result of military or naval service shall not on that account be barred from employment in any public position or employment whether under state, county or municipal civil service or otherwise, if the licensed physician making a physical examination of the

veteran for the public employer certifies that the applicant's disability will not materially handicap the veteran in the performance of the duties of the position.

History: 1983 a. 430; 1989 a. 56.

45.53 Soldiers' and sailors' civil relief act. (1) In this section, unless the context indicates otherwise:

(a) "Interest and penalties" mean interest and penalties accruing on taxes during the period of military service and 6 months thereafter. In case property is owned jointly by several owners, other than property held jointly or as marital property with the spouse of the person in military service, interest and penalties shall mean the proportionate share of the total interest and penalties commensurate with the equity in the property of such person in military service.

(b) "Persons in military service" means any man or woman who is or was serving on active duty in the U.S. armed forces.

(c) "Property" shall mean any real estate or personal property belonging to a person in military service provided that such property was acquired prior to the commencement of military service except in cases where such property was acquired by descent in which case the proviso shall not apply.

(d) "Taxes" shall mean any general taxes or special assessments or tax certificates evidencing such taxes and assessments not belonging to private buyers.

(2) In order to supplement and complement the provisions of the soldiers' and sailors' civil relief act of 1940 and all amendments thereof, so as to afford and obtain greater peace and security for persons in military service, the enforcement of certain tax obligations or liabilities which may prejudice the property rights of persons in military service, for the period herein set forth may be temporarily suspended as hereinafter provided.

(3) Any person while in the military service of the United States or within 6 months after terminating service, or the person's agent or attorney during that period, may petition a court of record in any county in which the person owns property for relief under this section. Upon filing of the petition the court shall make an order fixing the time of hearing and requiring the giving of notice of the hearing. If after hearing the court shall find that the person is, or within 6 months next preceding the filing of the petition was, in the military service of the United States and owns property within the county on which taxes have fallen or will fall due, and that the person's ability to pay the taxes has been materially adversely affected by reason of being in military service, the court shall enter an order determining that the person is entitled to relief under this section. When an order so determines, the court may further suspend proceedings for the collection of taxes on the property for a period not exceeding 6 months after termination of the military service of the person, or for the time reasonably necessary to complete the agreement provided in sub. (7). Thereafter, the property shall not be included in tax certificates issued to enforce collection of taxes on property, and all proceedings for that purpose shall be suspended, except under terms that the court in the order may direct.

(4) Whenever any tax or assessment on real property, including all special assessments, is not paid when due, any interest or penalty under s. 74.47 and the maximum limitation of 6% per year as provided by the soldiers' and sailors' civil relief act shall be waived for the purpose and upon the conditions specified in this section.

(5) The penalties and interest which shall be waived pursuant to this section are those for nonpayment of all taxes or assessments, general or special, falling due during the period of military service of any person against either real or

personal property of which the person is the bona fide owner or in which the person has a beneficial interest.

(6) The person owning or having an interest in any property in respect to which the order under sub. (3) is made, or the person's agent or attorney, may file with the county treasurer or with the city treasurer of cities authorized by law to sell lands for the nonpayment of taxes as to such taxes and assessments a certified copy of the order of suspension together with an affidavit in triplicate, sworn to by the person or agent or attorney setting forth the name of the owner, the legal description of the property, the type of property, when acquired, volume and page number where the deed was duly recorded if acquired by deed and the name of the estate if acquired by descent, amount of delinquent taxes if any, and the names of the holders of any outstanding mortgage, lien or other encumbrance. Upon such filing the county treasurer or city treasurer shall file a first copy in the office of the register of deeds of the county, the 2nd copy in the office of the treasurer, who shall make proper notation that a person in military service is the holder of the legal title and has made application for special relief, and the 3rd copy shall be immediately forwarded to the office of the clerk of the town, city or village where the property is located, or if it is located in a city authorized to sell lands for nonpayment of its taxes to the tax commissioner, who shall make an appropriate notation in the records.

(7) Any person seeking relief under this section, within 6 months after termination of military service, or the person's agent or attorney, or in case of death of such person, the personal representative, surviving spouse or heir at law, may apply to the county treasurer of the county, or the city treasurer of cities authorized by law to sell lands for the nonpayment of taxes, as the case may be, wherein such property is located for an agreement for scheduled instalment payments, covering the taxes accrued during such person's period of military service, provided that such taxes will be paid over a period of time equal to a period no longer than twice the length of military service of such person, in equal periodic instalments of not less than \$10, and subject to such other terms as may be just and reasonable.

(8) In the event default is made by the applicant in the performance of any of the provisions of such agreement, such treasurer, as the case may be, shall forthwith notify the applicant of such default and the amount and date due, by written notice either served personally or by registered mail with return receipt demanded to the address set forth in such application. If such defaulted payment is not fully made within 10 days after service of such notice, then such treasurer without further notice may declare that the entire amount of such tax subject to the scheduled instalments shall be immediately due and payable and that such agreement is fully rescinded and terminated. Thereupon the county treasurer shall notify the register of deeds and the town, city or village treasurer thereof, or if the city treasurer of cities authorized by law to sell lands for the nonpayment of taxes the latter shall notify the register of deeds and the county treasurer and such officers and shall make appropriate notations thereof on their records. Thereafter, the county treasurer or city treasurer as to taxes of cities authorized by law to sell land for the nonpayment of taxes, may without further order of the court enforce the collection of such tax or assessment and sell such tax certificates together with such penalties and interest as may have accrued thereon from the date of default of such scheduled instalment payment.

History: 1975 c. 94 s. 91 (5); 1975 c. 199, 211; 1979 c. 110 s. 60 (13); 1981 c. 167; 1983 a. 186, 189; 1987 a. 378; 1989 a. 56.

SUBCHAPTER II

VETERAN'S HOUSING LOAN PROGRAM

45.70 Purpose. (1) **LEGISLATIVE FINDINGS.** It is determined that veterans, who have sacrificed in the service of their country, valuable years of their lives and considerable earning potential, constitute a readily identifiable and particularly deserving segment of this state's population. It is further determined that by making additional housing funds available to eligible veterans limited private home loan funds available will be more readily available to all. It is further determined that the loan programs established under this subchapter are special purpose credit programs for an economically disadvantaged class of persons for the purposes of the federal equal credit opportunity act (15 USC 1691-1691f).

(2) **LEGISLATIVE INTENT.** This subchapter is created principally to enable the state and the authority to exercise their borrowing power to increase those funds available for loans providing for the purchase or construction of private housing, without requiring downpayments beyond the reach of families of modest means. It is the intent of the legislature that the department in its administration of this subchapter avoid the duplication of those administrative services available through private lending institutions, utilizing the administrative services of such institutions to the maximum extent consistent with the purposes of this subchapter.

History: 1973 c. 208; 1975 c. 26; 1979 c. 34.

45.71 Definitions. In this subchapter:

(1) "Anticipated annual shelter payment" means the total annual payments anticipated for the following, as determined by the department or authorized lender on the basis of the loan applied for under s. 45.79 or 45.80:

(a) Real estate taxes on the premises to be mortgaged.

(b) Insurance premiums for coverage required under s. 45.79 (3) (b) or 45.80 (4) (b).

(c) Required payments on principal and interest on all mortgages placed or to be placed against the home of an eligible person.

(1m) "Authority" means the Wisconsin housing and economic development authority.

(2) "Authorized lender" means any lender authorized under s. 45.79 (5) (a) 5 to make or service loans under s. 45.79.

(2m) "Board" means the board of veterans affairs.

(3) "Closing costs" include:

(a) Any origination fee authorized under s. 45.79 (5) (b).

(b) Attorneys fees.

(c) Recording fees.

(d) Other costs authorized by the department.

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

(5) "Dependent" means:

(a) The spouse of a veteran who resides with the veteran; and

(b) Any person who resides with a veteran and is dependent upon the veteran for more than one-half of the person's support.

(6) "Eligible person" means any veteran qualified under s. 45.74 to receive a loan under this subchapter.

(7) "Funds" include cash on hand, liquid investments, and any asset the conversion of which to cash would not result in a substantial loss, except as provided under s. 45.85. The funds of a veteran include all funds owned by the veteran and spouse, individually or jointly, unless the veteran and spouse are permanently separated.

(7m) "Guaranteed loan" means a loan guaranteed by the U.S. department of veterans affairs under 38 USC 1801 to 1827.

(8) "Home" means a building or portion thereof used as the veteran's principal place of residence, and includes condominiums and income-producing property, a portion of which is so occupied by the veteran, and the land, including existing improvements, appertaining to such a building.

(9) "Income" means the amount of adjusted gross income a veteran is receiving for regular work together with any income from other sources that may reasonably be expected to be regular and dependable, except as provided under s. 45.85.

(a) Part-time or overtime pay, unemployment compensation and income of the veteran's spouse are considered income only if the department or authorized lender deems such sources of income to be regular and dependable.

(b) Unless temporary in nature and except as provided under s. 45.85, pensions and disability compensation shall be considered income.

(10) "Insurer" means any insurer authorized to do business in this state.

(12) "Mobile home" means a mobile home, as defined under s. 340.01 (29), which:

(a) Is used as the veteran's principal place of residence; and

(b) Meets or exceeds the statutory size under s. 348.07 (2).

(13) "Monthly payment" means:

(a) In regard to a loan made under s. 45.79:

1. Required payments on principal and interest.

2. Insurance premiums for coverage required under s. 45.79 (3) (b).

3. One-twelfth of annual real estate taxes on the mortgaged property.

(b) In regard to a loan made under s. 45.80:

1. Required payments on principal and interest.

2. Mortgage cancellation life insurance premiums.

(14) "Qualified purpose" means any purpose authorized under s. 45.76.

(15) "Secretary" means the secretary of veterans affairs.

(16) "Veteran" means:

(a) Any person who served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces and who is entitled to receive the armed forces expeditionary medal, established by executive order 10977 on December 4, 1961, the Vietnam service medal established by executive order 11231 on July 8, 1965, the navy expeditionary medal or the marine corps expeditionary medal or who served in Grenada, Lebanon or a Middle East crisis under s. 45.34 or any person who served for 90 days or more during a war period as enumerated under subds. 1 to 9 or under section 1 of executive order 10957, dated August 10, 1961, or if having served less than 90 days was honorably discharged for a service-connected disability or for a disability subsequently adjudicated to have been service-connected or died in service, or who served on active duty for more than 6 months during the period between February 1, 1955, and August 4, 1964, and was honorably discharged, and who has been a resident of this state for at least 5 years next preceding an application or death or who was a resident of this state at the time of enlistment or induction into service and is either a resident of and living in this state at the time of making application or is deceased. If the person had more than one qualifying term of service, at least one term of service must have been under honorable conditions or have been terminated by an honorable discharge. Veterans who are otherwise eligible and who are serving on active duty in the U.S. armed forces need not be living in this state on date

of application to qualify for a loan under this chapter. The following are designated as war periods:

1. Indian war: Between 1860 and 1898.

2. Spanish American war: Between April 21, 1898, and April 11, 1899.

3. Philippine insurrection: Between April 12, 1899, and July 4, 1902 (extended to July 15, 1903, if actually engaged in Moro Province hostilities).

4. Boxer rebellion: Between June 16, 1900, and May 12, 1901.

5. Mexican border service: Between June 19, 1916, and April 5, 1917.

6. World War I: Between April 6, 1917, and November 11, 1918 (extended to April 1, 1920, if service was in Russia).

7. World War II: Between August 27, 1940, and July 25, 1947.

8. Korean conflict: Between June 27, 1950, and January 31, 1955.

9. Vietnam era: Between August 5, 1964, and a date of termination to be established by the legislature, excepting service on active duty for training purposes only.

(b) An unremarried spouse of a deceased veteran.

(c) A minor or dependent child of a deceased veteran.

(17) "Weatherization improvement" means any improvement of a housing accommodation primarily designed to minimize the loss of an energy resource used for space heating in the housing accommodation, including, but not limited to, caulking, weatherstripping, insulation and storm windows. "Weatherization improvement" does not include the construction, installation or replacement of any space heating or cooling system.

History: 1973 c. 208, 333; 1975 c. 26, 199; 1977 c. 4; 1979 c. 102, 155, 221; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 430; 1985 a. 29; 1987 a. 399; 1989 a. 31, 56

45.72 Powers of the department. In respect to loans made by and mortgages and mortgage notes executed or properties mortgaged to the department or to authorized lenders under this subchapter or s. 45.352, 1971 stats., the department may:

(1) Execute necessary instruments.

(2) Collect interest and principal.

(3) Compromise indebtedness due on mortgage notes.

(4) Sue and be sued.

(5) Exercise the rights of a mortgagee generally including but not limited to, the right to:

(a) Acquire or take possession of such mortgaged property and in so doing the department may accept voluntary surrender and conveyance of title to such property in full satisfaction of a mortgage debt or may bid for and purchase such property at a sheriff's sale or replevin such property.

(b) Commit itself to execute and execute subordination agreements, partial releases and other necessary instruments.

(c) Set up and follow procedures to assure proper disbursement of the proceeds of insurance checks, share drafts or other drafts covering damages sustained on mortgaged properties.

(d) Pay the principal and interest on any obligations incurred in connection with such mortgages on such property including real estate taxes, insurance premiums, attorney fees and obligations created as a result of its exercise of powers vested in it under this subchapter.

(e) Exercise such other powers as may be necessary for the efficient administration of this subchapter.

(6) In contracts entered into pursuant to s. 45.79 (5) (a) 1, empower authorized lenders to exercise any of the powers vested in the department under this subchapter.

(7) Manage, operate, lease, exchange, sell and otherwise convey real property.

(8) Grant easements in any real property acquired by the department.

(9) Upon application by the mortgagor and agreement in writing executed by the parties:

(a) Extend the time in which the obligation under a mortgage note or any part thereof must be paid.

(b) Reduce the amounts of monthly instalments and provide such other terms and conditions relative to time and manner of repaying the obligation as it deems necessary or reasonable.

History: 1973 c. 208, 333; 1983 a. 368.

45.73 Duties of the department. (1) RULE-MAKING RESPONSIBILITY. The department shall promulgate rules and devise forms necessary for the efficient administration of this subchapter.

(2) **ALLOCATION OF LIMITED LOAN RESOURCES.** If the department estimates that applications for loans under this subchapter will exceed the moneys available for such loans, the department shall give priority to the most necessitous cases and take all action necessary to spread the available moneys among the maximum possible number of veterans. The board on veterans affairs shall establish procedures whereby veterans of the Vietnam era, as defined in s. 45.71 (16) (a) 9, receive first priority.

History: 1973 c. 208; 1975 c. 224.

In making housing loans under 45.352, Stats. (1969), the department may rely on fixed standards as to the applicant's needs. When applications on hand exceed available funds, loans should be made to the most needy applicants. 62 Atty. Gen. 66.

45.74 Eligible persons; disqualifying factors. Except as provided under s. 45.745 or 45.85, no person may receive a loan under this subchapter if the department or authorized lender determines that any of the following applies:

(1) **ANNUAL INCOME LIMITATION.** The annual income of the person or both the person and the person's spouse exceeds whichever of the following applies:

(a) The amount of \$27,000 for loan applications approved under s. 45.79 during the period of July 1, 1981 to April 7, 1987, and for loan applications approved under s. 45.80 during the period of July 1, 1981 to June 30, 1988.

(b) The amount of \$34,000 for loan applications approved under s. 45.79 during the period beginning on April 7, 1987, and ending on August 8, 1989, and for loan applications approved under s. 45.80 during the period beginning on July 1, 1988, and ending on August 8, 1989.

(c) The amount of \$36,500 for loan applications approved under s. 45.79 or 45.80 during the period beginning on August 9, 1989, and ending on June 30, 1990.

(d) The amount of \$39,000 for loan applications approved on or after July 1, 1990.

(2) **ABILITY TO PAY.** The person will be incurring an excessive indebtedness in view of the person's income.

(3) **NEED.** The person does not require a loan in addition to the person's own funds.

(5) **COST OF HOUSING OR LOAN.** The total cost of the housing accommodation including garage, but excluding land and other nonhousing improvements thereon, exceeds 2 times the person's annual income or the total cost of the housing accommodation, including garage, land and other nonhousing improvements thereon exceeds 2.5 times the person's annual income or the amount of the loan applied for under s. 45.79 exceeds 2.5 times the person's annual income, whichever the person elects.

(6) **DELINQUENT SUPPORT PAYMENTS.** It has received a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

(6m) **PREVIOUS LOANS.** The person has a previous loan outstanding under this subchapter, unless any of the following apply:

(a) The person is applying for a loan under s. 45.80, for a purpose specified under s. 45.76 (2), and the previous loan was made under s. 45.79.

(b) The previous loan has been assumed by an eligible person with the department's approval upon the sale of the residence securing the previous loan.

(c) The person is applying for a loan under s. 45.79 for a purpose under s. 45.76 (1) (c) and the previous loan was made under s. 45.79.

History: 1973 c. 208; 1975 c. 26, 224; 1977 c. 29, 381, 418, 446; 1979 c. 220, 221, 355; 1987 a. 9, 27, 319, 399; 1989 a. 31.

45.745 Loans to disabled veterans; qualifying factors. A veteran who is receiving 100% disability compensation from the U.S. department of veterans affairs under 38 USC 301 to 315, 331 to 337 and 350 to 362 due to a permanent and total service-connected disability may receive a loan under this subchapter if the department or authorized lender determines, after disregarding any payment received under s. 45.85, that all of the following apply:

(1) **ANNUAL INCOME LIMITATION.** The annual income of the person or both the person and the person's spouse does not exceed 140% of the amount specified under s. 45.74 (1).

(2) **ABILITY TO PAY.** The person will not be incurring an excessive indebtedness in view of the person's income.

(3) **NEED.** The person requires a loan in addition to the person's own funds.

(5) **COST OF HOUSING OR LOAN.** If the net cost of the housing accommodation including garage, but excluding land and other nonhousing improvements on the property after deducting the federal grant does not exceed 2 times the person's annual income, or if the net cost of the housing accommodation including garage, land and other nonhousing improvements on the property after deducting the federal grant does not exceed 2.5 times the person's annual income, or if the amount of the loan applied for under s. 45.79 after deducting the federal grant does not exceed 2.5 times the person's annual income, whichever the person elects.

(6) **PREVIOUS LOANS.** If the person has a previous loan outstanding under this subchapter, any of the following apply:

(a) The person is applying for a loan under s. 45.80, for a purpose specified under s. 45.76 (2), and the previous loan was made under s. 45.79.

(b) The previous loan has been assumed by an eligible person with the department's approval upon the sale of the residence securing the previous loan.

(c) The person is applying for a loan under s. 45.79 for a purpose under s. 45.76 (1) (c) and a previous loan was made under s. 45.79.

History: 1977 c. 381; 1979 c. 220; 1987 a. 27, 319, 399; 1989 a. 31.

45.75 Choice of program. A veteran who meets the requirements of both the primary and secondary mortgage loan programs shall have the right to do the following:

(1) Choose the program in which to participate, if the veteran is not eligible to participate in both programs at the same time.

(2) Choose to participate in either program, or both, if the veteran is eligible to participate in both programs at the same time.

History: 1973 c. 208; 1987 a. 27, 403.

45.76 Eligible uses for loan proceeds. (1) PRIMARY MORTGAGE LOAN PROGRAM. An authorized lender may, with the approval of the department, make loans under s. 45.79 for:

(a) *Purchases.* Purchase of:

1. A mobile home or real property on which a mobile home is to be situated, but only if the veteran has available and applies on the total cost of the property, an amount equivalent to at least 15% of the total cost. This 15% requirement does not apply to a person who qualifies under s. 45.745.

2. A home and eligible rehabilitation of a home, as defined in s. 234.49 (1) (d).

(b) *Construction.* Construction of a home, including housing accommodation and garage, and the acquisition of land therefor.

(c) *Home improvements.* 1. A loan of not more than \$15,000 to improve a home, but not to include any of the following:

a. Construction of a deck or patio.

b. Construction of a fireplace, except for necessary repairs or the addition of permanently attached energy efficient equipment to an existing fireplace.

c. Fencing or landscaping.

d. Purchase of home appliances.

2. The department may provide home improvement loans under this paragraph funded under s. 45.79 (6) (a) only if the department has received a determination, based on a ruling from the internal revenue service, that using the bond revenue for those loans will not preclude the bonds from being qualified veterans' mortgage bonds, as defined in 26 USC 143.

(d) *Refinancing.* 1. Refinancing the balance due on an indebtedness which was incurred for a use designated in pars. (a) to (c) if the balance owing on the indebtedness does not exceed the amount requested in a prior loan application from the veteran and if the indebtedness was incurred by the veteran after a prior loan application from the veteran was denied by the department. Refinancing loans may be made under this paragraph only if the board reverses the department's denial after determining that the prior application met requirements in effect on the date of the denial and that the loan application should have been approved.

2. Notwithstanding any provision of this subchapter and any rule promulgated thereunder except s. 45.79 (3) and any rules promulgated thereunder, refinancing the balance due on an indebtedness which was incurred to purchase or construct a home, using the proceeds of state debt contracted under s. 45.79 (6) (a) at any time after December 31, 1983, if the veteran or the veteran and the veteran's spouse applied to the department for a loan under s. 45.79 to purchase or construct a home located or to be located on the land on which the home financed with the debt to be refinanced is located, if, in August 1983, the department returned the application to the authorized lender who originated it solely because the department could not finance the loan from the fund under s. 18.08, if the authorized lender did not subsequently resubmit the loan to the department under s. 45.79, if the purchase or start of the construction of the home occurred in 1983 and if the attorney general, under s. 165.015 (3), determines that the refinancing is permissible under 26 USC 103A and the regulations thereunder. Any refinancing loan made by the department under this subdivision is subject to this subchapter.

(2) **SECONDARY MORTGAGE LOAN PROGRAM.** The department may make loans under s. 45.80 for:

(b) *Garage construction.* Construction of a garage.

(c) *Increasing housing loan.* Increasing a housing loan made under s. 45.352, 1971 stats., or under s. 45.80 for a purpose under par. (d) or (e).

(d) *Mobile home purchases.* A mobile home or real property on which a mobile home is to be situated, but only if the veteran has available and applies on the total cost of the property, an amount equivalent to at least 15% of the total cost. This 15% requirement does not apply to a person who qualifies under s. 45.745.

(e) *Refinancing to avoid loss of home.* Refinancing existing housing related indebtedness of and encumbrances against the home of a veteran who is in danger of losing his or her home through legal action.

(3) **CONDITIONS.** (a) *Cost and value of property.* No loan may be made under this subchapter if the department or authorized lender determines that:

1. The total cost of the property exceeds its market value. This subdivision does not apply to a person who qualifies under s. 45.745.

2. The value of the land and nonhousing improvements thereon is disproportionate to the value of the housing accommodation.

(b) *Certificate of use.* The department or authorized lender may require any person applying for a loan under this subchapter to certify that:

1. The residence to be purchased, constructed, improved or refinanced with financial assistance under this subchapter will be used as the person's principal residence.

2. Unless other prepayment provisions are permitted under s. 45.78 (2), the loan made under this subchapter will be repaid in full upon sale of the residence or any of the person's interest in it. A divorce judgment divesting the veteran's interest in the residence or a quitclaim deed executed under the judgment does not constitute a sale.

History: 1973 c. 208, 333; 1975 c. 224; 1977 c. 381; 1979 c. 220, 221; 1983 a. 309; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27; 1989 a. 31, 56

45.77 Veteran's contribution. No loan may be made under this subchapter unless, in addition to the closing costs that the veteran may be required to pay, the veteran has available, and applies on the total cost of the property for which the loan is made, an amount equivalent to at least 5% of the total cost. The amount may consist of money or other assets, including equity in real property. This section does not apply to a person who qualifies under s. 45.745.

History: 1973 c. 208; 1977 c. 381, 418, 447; 1979 c. 220; 1987 a. 319

45.78 Manner of repayment. (1) MONTHLY PAYMENTS; RIGHT TO PREPAY. Each loan made under this subchapter shall be repaid in monthly instalments with the option to pay additional sums on any instalment paying day.

(2) **ACCELERATION PROVISIONS.** All loans made under this subchapter shall be repaid in full upon sale of the residence securing the loan or any interest in such residence, unless:

(a) The sale is to another eligible person;

(b) The department or authorized lender servicing the loan determines that acceleration will jeopardize collection of the loan balance; or

(c) The loan is a guaranteed loan which is assumed or paid in regular monthly instalments under s. 45.79 (10) (a).

History: 1973 c. 208; 1979 c. 155

45.79 Primary mortgage loan program. (1) LOANS AUTHORIZED. An authorized lender or a county veterans' service officer may, as agent for and with the approval of the department, make loans to eligible persons for qualified purposes in the manner provided under this section.

(2) **LOAN APPLICATIONS.** (a) *Application and content.* Applications for loans under this section for a purpose specified in

s. 45.76 (1) (a), (b) or (d) shall be made to an authorized lender and applications for loans under this section for a purpose specified under s. 45.76 (1) (c) shall be made to a county veterans' service officer on forms approved by the department and signed by the applicant. If the applicant is married and not separated or in the process of obtaining a divorce, the applicant's spouse also shall sign the application.

(b) *Certification by department.* The applicant shall apply to the department through a county veterans' service officer for certification of eligibility as a veteran.

(c) *Processing.* After the department has determined that the person applying for the loan is a veteran, the authorized lender or county veterans' service officer shall pass upon the merits of each application and shall forward the application to the department with its recommendation. The department may disallow the loan applied for or approve it in whole or in part and disburse funds in the amount of any loan approved.

(3) **LOANS TO BE SECURED.** (a) *First or 2nd mortgage required.* 1. Each loan made under this section shall be evidenced by a promissory instalment note and secured by a mortgage on the real estate in respect to which the loan is granted. Any loan having as its source funds provided through sub. (6) (a) shall have the mortgage name the department as mortgagee and payee. Any loan having as its source funds provided through sub. (6) (b) shall have the mortgage name the authorized lender involved as mortgagee and payee, and such mortgage and note shall be assigned by the authorized lender to the authority immediately upon execution. A mortgage securing a loan made for a purpose specified in s. 45.76 (1) (a), (b) or (d) must have priority over all liens against the mortgaged premises and the buildings and improvements thereon, except tax and special assessment liens filed after the recording of the mortgage. A mortgage securing a loan made for a purpose specified under s. 45.76 (1) (c) may be junior and subject to not more than one prior mortgage, and, except for that prior mortgage, must have priority over all liens against the mortgaged premises and the buildings and improvements on those premises, except tax and special assessment liens filed after the recording of the mortgage.

2. No loan may be made under this section for the purchase or improvement of a mobile home unless such loan is secured by both a first mortgage on real estate and a primary chattel security agreement covering the mobile home itself.

(b) *Casualty insurance coverage.* Mortgages given to secure loans under this section shall provide for adequate fire and extended coverage insurance. Policies providing such insurance coverage shall name the authorized lender involved as an insured.

(4) **INTEREST RATE DETERMINED.** (a) The board shall determine the interest rate on loans made under this section. Except as provided in sub. (10), the interest rate so determined may not be increased during the term of the loan. Except as provided in sub. (10), the interest rate shall be as low as possible but shall be sufficient to fully pay all expenses and to provide reserves which are reasonably expected to be required in the judgment of the board in accordance with par. (b) and sub. (7) (a) 3.

(b) 1. The board shall select and implement the methods of insuring against losses arising from delinquency and default in the repayment of loans under sub. (6) (a) and shall select and implement the methods of managing and selling any property securing loans funded under sub. (6) (a).

2. The board shall charge or cause to be charged to borrowers all costs for insuring the program under subd. 1.

3. Moneys collected under subd. 2 and that are held by the state shall be deposited, reserved and expended as provided in sub. (7) (a) 3.

(c) Loans made pursuant to this section shall not be subject to s. 138.05, 138.051 or 138.052.

(5) **ADMINISTRATIVE PROVISIONS.** (a) *Additional authorized activities of the department.* The department may:

1. Enter into contracts with authorized lenders throughout this state authorizing such lenders to process applications and close and service loans made under this section. The contracts shall include the responsibilities of the authorized lender with respect to credit evaluations, financial eligibility determinations, valuation of the home for which the loan is to be made, collection procedures in the event of delinquent loan repayments and other functions which the department may require. Such contracts shall authorize the lender to retain an amount from the monthly payments for servicing loans made by this section. The rate of the service fee shall not exceed a maximum rate established by the department with the lender in accordance with current practices under similar programs, and shall be stated in the contracts. A maximum length of time between receipt of monthly mortgage payments by the lender and transmittal of such payments to the state or the authority shall be established by the department and specified in the contracts.

2. Commit to advance and advance funds in the full amount of any mortgage securing a purchase loan to be made by an authorized lender in accordance with the terms of this section.

3. Commit to advance and advance in instalments up to the full amount of any mortgage securing a construction loan made by an authorized lender, to provide for the purchase and improvement of a lot and the completion of the construction for which the loan is to be made, under the terms of this section.

4. Mail checks, share drafts or other drafts or otherwise transfer or arrange for transfer of funds, to authorized lenders not sooner than 7 days prior to proposed closing or disbursement dates.

5. Designate and maintain a current list of lenders authorized to make or service loans under this section. The department shall promulgate rules establishing standards for and governing the performance of authorized lenders in making and servicing loans under this section and shall periodically monitor such performance. The department shall promulgate rules to provide for the removal from its list of authorized lenders of any lender that makes an excessive number of errors on loan applications processed under subd.

1. The department may summarily remove from its list of authorized lenders any lender that indicates it does not wish to participate in the program and after hearing on notice remove from its list of authorized lenders any lender that fails to conform with the rules of the department governing such performance, and may refuse to permit a lender so removed to make or service any loan under this section until such time as the department is satisfied that the lender will conform with such rules.

6. Require borrowers to make monthly escrow payments to be held by the authorized lender for real estate taxes and casualty insurance premiums which shall be paid by the authorized lender where due to the extent of the amounts owing thereon or to the extent escrowed, whichever is less.

7. The department may obtain guarantees for loans under 38 USC 1801 to 1827.

8. The department may exercise all of the powers vested in it under this subchapter in respect to any applications for loans and loans approved under this section and in respect to

any mortgages and mortgage notes executed to authorized lenders and assigned to and purchased by the authority under this section and the properties securing such mortgages. The department is specifically authorized in its discretion to exercise or authorize such powers to be exercised in its own name.

(b) *Origination fees.* Persons receiving loans under this section shall pay at the time of closing an origination fee to the authorized lender participating in the loan. The origination fee charged to borrowers under this section shall be negotiated between the department and the authorized lender but may not exceed that which the authorized lender would charge other borrowers in the ordinary course of business under the same or similar circumstances.

(6) **SOURCES OF LOAN FUNDS.** Funding for loans authorized by this section may, at the discretion of the building commission, be provided by one or a combination of:

(a) *State debt.* The secretary, with the approval of the governor and subject to the limits of s. 20.866 (2) (zn), may request that state debt be contracted in accordance with ch. 18. Debt so requested must meet each of the following additional requirements:

1. State debt may be contracted when it reasonably appears to the building commission that all state obligations so incurred under this paragraph and s. 20.866 (2) (zo) can be fully paid from moneys received from veterans repayments of loans on mortgages and mortgage notes funded under this paragraph and other available revenues of the veterans mortgage loan repayment fund. In making this determination, the building commission may take into account the effect of its planned future actions to refinance existing state debt, to create reserve funds and to modify the structure of the total debt outstanding so as to ensure that projected repayments of loans on mortgages and mortgage notes, together with other available moneys, will be sufficient as received to fund debt service payments as due. It is the intent of the legislature that the program authorized under this section be fully self-supporting and that it be so administered that all debt service and all related costs of the program under this section will require no supplemental support from the general fund.

2. The chairperson of the board shall certify that the chairperson does not expect proceeds of state debt issued under this paragraph to be used in a manner that would cause the debt to be arbitrage bonds as defined by the federal internal revenue code.

(b) *Debt of the authority.* Loans made under this section may be purchased by the authority from the veterans housing loan fund under s. 234.41. All receipts of interest, except amounts retained as servicing fees by the authorized lenders servicing such loans purchased by the authority, and principal on such loans, payments of losses by insurers not used for restoration of the property securing such loans, and any other collections, shall be deposited by the authority in the veterans housing bond redemption fund under s. 234.43 and shall be disbursed therefrom as provided in s. 234.43 (2).

(c) *Revenue obligations.* The secretary, with the approval of the governor and subject to the limits of sub. (9), may request that revenue obligations be contracted in accordance with subch. II of ch. 18. Revenue obligations so requested must meet the following additional requirements:

1. Revenue obligations may be contracted when it reasonably appears to the building commission that all obligations incurred under this paragraph can be fully paid from moneys received from veterans' repayments of loans on mortgages and mortgage notes funded under this paragraph.

2. The chairperson of the board shall certify that the board and the department do not expect and shall not use proceeds of revenue obligations issued under this paragraph in a manner that would cause the revenue obligations to be arbitrage bonds as defined in the U.S. internal revenue code.

(7) **REPAYMENT OF MORTGAGE LOANS.** (a) There is created the veterans mortgage loan repayment fund. All moneys received by the department for the repayment of loans funded under sub. (6) (a) except for servicing fees required to be paid to authorized lenders, net proceeds from the sale of mortgaged properties, any repayment to the department of moneys paid to authorized lenders, gifts, grants, other appropriations and interest earnings accruing thereon, and any moneys deposited or transferred under s. 18.04 (6) (b) or (d) shall be promptly deposited into the veterans mortgage loan repayment fund. The board shall establish by resolution a system of accounts providing for the maintenance and disbursement of moneys of the veterans mortgage loan repayment fund to fund loans under sub. (6) (a) or to fund, refund or acquire public debt as provided in s. 18.04 (5). The system of accounts shall record and provide moneys for all of the following purposes:

1. Transfer to the bond security and redemption fund.
2. The acquisition or redemption of public debt in accordance with resolutions of the building commission.
3. Payment of losses arising from delinquency or default in the repayment of loans funded under sub. (6) (a), including loss of principal and interest accrued to the point of final disposition of the defaulted loan and the expenses of management and sale of the property taken upon default of loan repayment.
4. Payment of all costs incurred by the department in processing and servicing loans and accounting for and administering the program under this section, including a portion of grants made to county veterans' service officers under s. 45.43 (7).
5. Payment of all costs incurred in contracting public debt for the purposes under s. 18.04 (5) and under s. 18.04 (2) for the purpose of funding veterans' housing loans.
6. Payment of costs of issuance of obligations to fund loans under sub. (6) (c) if not paid from the proceeds of the obligations.
7. Payment of obligations arising from loans funded under sub. (6) (b).
8. Payment of any other costs of program operation and management authorized under this section.

(am) The board may amend the system of accounts established under par. (a) only by resolution of the board that is approved by the building commission.

(b) If revenues of the veterans mortgage loan repayment fund are insufficient to meet all current expenses, the secretary of administration shall establish a repayment schedule whereby the general fund will be reimbursed in an orderly manner for moneys advanced. Interest rates to be charged on loans subsequently issued shall be adjusted to provide sufficient revenues to meet this repayment schedule.

(c) After meeting all expenses and providing for reserves under par. (a) 3, balances in the veterans mortgage loan repayment fund, upon prior approval of the building commission, may be used to fund loans under this section to persons not disqualified from eligibility under s. 45.74 who first served on active duty with the U.S. armed forces on or after January 1, 1977, or who completed their service on active duty with the U.S. armed forces more than 30 years before the date of the loan application, fund home improvement loans under s. 45.76 (1) (c), purchase loans or otherwise advance moneys for the payment of obligations arising from

loans funded under sub. (6)(c) or pay the balances owing on guaranteed loans after the assumptions of the loans or the closings of the sales of residences under sub. (10)(c). Surpluses may be used under sub. (10)(c) only if there are no unrestricted fund balances available for that purpose in the funds created under sub. (9). Section 20.001 (3)(e) shall not be construed to prohibit this action.

(8) LIMITATION ON REMODELING OR ALTERATION FOR A DISABLED VETERAN. Not more than 50% of the proceeds of a loan granted under this section for a purpose under s. 45.76 (1)(a) may be used for remodeling or alteration of the housing accommodation after purchase to meet the special needs of a veteran due to a permanent and total service-connected disability. That portion of the proceeds used for this purpose shall be reserved and distributed by the authorized lender.

(9) REPAYMENT OF REVENUE OBLIGATIONS. (a) All moneys received from any source for repayment of loans, mortgages or mortgage loan notes funded with proceeds of revenue obligations issued under sub. (6)(c) shall be deposited into one or more separate nonlapsable trust funds in the state treasury or with a trustee as provided in s. 18.56 (9)(j). The board may pledge revenues received by the funds to secure revenue obligations issued under sub. (6)(c) and shall have all other powers necessary and convenient to distribute the proceeds of the revenue obligations and loan repayments in accordance with subch. II of ch. 18. Unrestricted balances in the funds may be used to fund additional loans issued under sub. (6)(c) and pay the balances owing on loans after the assumptions of the loans or the closings of the sales of residences under sub. (10)(c).

(b) Revenue obligations issued under sub. (6)(c) shall not exceed \$280,000,000 in principal amount, excluding obligations issued to fund or refund outstanding revenue obligation notes or to refund outstanding revenue obligation bonds.

(c) Except as may otherwise be expressly provided in resolutions authorizing the issuance of revenue obligations or in other agreements with the holders of revenue obligations, each issue of revenue obligations shall be on a parity with every other revenue obligation issued under sub. (6)(c) and payable in accordance with subch. II of ch. 18.

(10) GUARANTEED LOANS. (a) Upon any sale of the residence which secures a guaranteed loan made under this section after April 3, 1980, except for the purchase of the residence at the time the loan is initially made, the guaranteed loan may be assumed or continue to be paid in regular monthly instalments if the person who assumes the mortgage loan payments or who will make the regular monthly instalments agrees:

1. To pay interest on the loan from the date of the assumption of the loan, if the loan is assumed, or from the date of the closing of the sale of the residence at the maximum rates of interest being charged on guaranteed loans on the date the loan was initially made; and

2. To increase the amortization payments on the loan by an amount sufficient to amortize the loan by the date the balance thereon is payable in full according to the original terms of the loan.

(b) The department and authorized lenders shall increase the interest rates and amortization payments on loans assumed under par. (a).

(c) After the assumption of a guaranteed loan funded under sub. (6)(c), if the loan is assumed, or the closing of the sale of a residence on which a balance is owing on a guaranteed loan funded under sub. (6)(c), the balance owing on the loan on the date of the assumption of the loan, if the loan is assumed, or the closing of the sale may be paid to the

funds created under sub. (9) from available surpluses, if any, in the veterans mortgage loan repayment fund under sub. (7)(c). The loan and the mortgage and mortgage note pertaining to the loan may be purchased by the veterans mortgage loan repayment fund under sub. (7).

(12) PRIOR PROGRAM LOANS. Subject to this section and ss. 45.73 to 45.77, neither the department nor an authorized lender may deny a person a loan under this section because of the reason the person sold any property previously mortgaged by the person to the department or an authorized lender, if the person completely paid the balance of any previous loan under this subchapter in accordance with the terms and conditions of the promissory note and the mortgage or other agreement executed in connection with the previous loan.

History: 1973 c. 208, 333; 1975 c. 26, 198, 199; 1977 c. 4, 381; 1979 c. 4, 107, 155; 1979 c. 168 s. 21; 1979 c. 221; 1981 c. 45 s. 51; 1981 c. 93, 336; 1983 a. 27, 368; 1985 a. 6, 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 319; 1987 a. 403 s. 255; 1989 a. 31, 56.

45.80 Secondary mortgage loan program. (1) LOANS AUTHORIZED; LOAN AMOUNT LIMITED. The department may make loans to eligible veterans for qualified purposes in the manner provided under this section. No loan made under this section may exceed \$8,000. Subject to such limitation the amount of each loan shall be fixed by the department with due regard to the conditions and requirements of the applicant.

(2) ADDITIONAL RESTRICTIONS ON ELIGIBILITY. No loan may be made under this section to any person unless:

(a) *Purpose.* The loan is for a purpose specified under s. 45.76 (2).

(b) *Ability to complete purchase.* The person is able, with the aid of such loan, to conclude the purchase or improvement of a mobile home, or the purchase, improvement or construction of a home.

(d) *Eligibility.* The person is a veteran as defined in s. 45.35 or is the unremarried spouse of a deceased veteran or the minor or dependent child of such veteran.

(e) *Delinquent support payments.* The department has not received a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

(f) *Assets.* 1. After making the person's total contemplated investment toward a purpose specified in s. 45.76 (1)(c) or (d) or (2) the person's funds will be less than or equal to \$1,000 plus the person's anticipated annual shelter cost payment.

2. After making the person's total contemplated investment toward a purpose specified in s. 45.76 (1)(a) or (b) all of the following apply:

a. The person's funds will be less than or equal to \$1,000 plus the person's anticipated annual shelter cost payments.

b. The amount of the total contemplated investment less closing costs is less than or equal to 20% of the total cost of the property for which the loan is made, except that this subd. 2. b does not apply to a person who qualifies under s. 45.745.

(3) LOAN APPLICATIONS. (a) *Application and content.* Applications for loans under this section shall be made to the department on forms furnished by the department, shall be completed and signed by the applicant and, if the applicant is married and not separated or in the process of obtaining a divorce, by the applicant's spouse, and shall contain such information as the department requires.

(b) *Processing.* The department shall pass upon the merits of each application and may disallow the loan applied for or grant it in whole or in part.

(4) LOANS TO BE SECURED. (a) *First or second mortgage required; exceptional circumstances.* 1. Each loan made under this section shall be evidenced by a promissory instalment note and, unless otherwise provided under subd. 2, secured by

a mortgage on the real estate in respect to which the loan is granted. Such mortgage may be junior and subject to not more than one prior mortgage, and, except for any such prior mortgage, must have priority over all liens upon the mortgaged premises and the buildings and improvements thereon, except tax and special assessment liens filed after the recording of the mortgage.

2. In any exceptional case involving an eligible person who is unable to obtain title to the real estate on which the person's mobile home is to be located or the person's home is located, the department may accept a chattel security agreement, an assignment of a long-term lease on real estate, or an assignment of vendee's interest in a land contract, to secure a note evidencing a loan made under this section.

(b) *Casualty insurance coverages.* Mortgages given to secure loans under this section shall provide for adequate fire and extended coverage insurance.

(5) **INTEREST RATE.** Each loan made under this section on the basis of a loan application received by the department before July 20, 1985, shall bear interest at the rate of 3% per year and each loan made under this section on the basis of a loan application received by the department on or after July 20, 1985, shall bear interest at the rate of 6% per year.

(6) **ADMINISTRATIVE PROVISIONS.** Loans granted under this section shall be paid out of the appropriation in s. 20.485 (2) (y). All receipts of interest and principal on such loans, payments of losses by insurers not used for restoration of the property securing such loans, and any other collections, shall be deposited in the veterans trust fund. All payments necessary to protect the state's investment shall be made from the appropriation in s. 20.485 (2) (y). The department may write off indebtedness on mortgage loans made under this section or s. 45.352, 1971 stats., which it deems uncollectible.

(7) **MORTGAGE CANCELLATION LIFE INSURANCE.** The department shall provide mortgage cancellation life insurance for

any qualified veteran mortgagor under this section or s. 45.352, 1971 stats., as follows:

(a) The department shall procure bids for the purchasing of such insurance in compliance with the laws governing the purchase and furnishing of services to state agencies.

(b) The insurance shall insure the life of the mortgagor for the amount of principal and interest due on the state loan, and the state shall be named the beneficiary. If the mortgagor, at any time while still owning the property and before paying off the loan, dies, the insurance shall be used to pay the balance of the state loan, and the secretary shall issue a satisfaction of the mortgage.

(c) The department shall pay the premiums from the appropriation made by s. 20.485 (2) (y) and require the mortgagors to repay their proportional share of the premiums at such times and in such amounts as shall be determined by the department.

History: 1973 c. 208 ss. 7, 8; 1973 c. 333; 1975 c. 26, 199, 224; 1979 c. 34, 1979 c. 110 s. 60 (11), (13); 1979 c. 221; 1985 a. 29; 1987 a. 27, 319, 399; 1989 a. 31, 56.

45.85 Disregard of agent orange litigation payment. Notwithstanding any other provision of this chapter, the department or authorized lender shall not consider any payment received by a veteran or a veteran's dependent from the settlement approved by the U.S. district court in the case of *In re "Agent Orange" Product Liability Litigation*, 618 F. Supp. 623 (D.C.N.Y. 1985), as income or assets for purposes of determining eligibility for any of the following:

(1) Vietnam and post-Vietnam era veterans educational grants under s. 45.28.

(3) Primary mortgage loans under s. 45.79.

(4) Secondary mortgage loans under s. 45.80.

History: 1987 a. 399.