

N.D.A.G. Letter to Kiser (Aug. 2, 1985)

August 2, 1985

Mr. Keith W. Kiser
Administrative Officer
Department of Veterans Affairs
P.O. Box 1287
1017 4th Avenue North
Fargo, ND 58107

Dear Mr. Kiser:

Thank you for your letter of July 24, 1985, requesting assistance in the administration of loans from the Veterans' Aid Fund.

Simply put, N.D.C.C. §§ 37-14-06 and 37-14-07 provide for loans from the Veterans' Aid Fund to qualified veterans where the veterans and the Department of Veterans Affairs are able to execute an agreement indicating that within a period of two years from the date of the receipt of the last item of the advancement from the aid fund the amount loaned will be repaid with interest. Your question essentially is whether the Department may require monthly payments or whether the applicant may wait until the conclusion of the two-year period and repay the amount in full.

Upon review of the actual words used in N.D.C.C. §37-14-07, it would appear that the phrase "shall be required to execute an agreement" is critical in answering your question. The statute itself does not provide for monthly installments or for a lump-sum repayment of the loan. Instead, the statute only requires the execution of an agreement for the repayment to occur "within a period of two years."

It is our conclusion that the legislature intended to leave to the applicants and to the Department of Veterans Affairs the details as to the repayment of these amounts. By requiring the execution of an agreement, the legislature has left it to the terms of the contract entered into by both parties to spell out the manner in which such repayment shall occur. Thus, we see no legal obstacle to the Department of Veterans Affairs and the applicants requesting such loans from this fund to enter into an agreement requiring monthly payments as opposed to a lump-sum payment at the end of two years. Furthermore, we see no legal obstacle to a contract term providing for collection or other remedies upon a default of a monthly payment despite the passage of less than two years. Again, such details are left to negotiation and agreement between the two parties.

Naturally, should timely repayment be made one-half of the interest would have to be refunded to the applicant as required by N.D.C.C. § 37-14-07. The phrase "timely repayment" appears to reflect the agreement required between the applicant and the Department. Thus, where the agreement requires monthly payments and that has not

occurred, timely repayment would not be had despite the fact that the entire sum may be repaid within a period of two years. Again, the details as to the exact form of repayment are left to the parties to agree upon through their agreement as required by the statute.

We would finally note that N.D.C.C. §37-14-10 provides the Administrative Committee on Veterans Affairs to issue administrative regulations which may be needed in administering the provisions of this chapter. Thus, the Committee may wish to consider this subject and whether appropriate rules need to be issued so as to provide notice and information to all applicants who may desire to make use of loans from this fund.

Sincerely,

Nicholas J. Spaeth

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