



2011 ASSEMBLY BILL 532

February 7, 2012 - Introduced by Representatives CLARK, BEWLEY, C. TAYLOR, ZEPNICK, HEBL, BERCEAU, ROYS, SINICKI, MASON, GRIGSBY and FIELDS, cosponsored by Senators HOLPERIN, SCHULTZ, RISSER, HANSEN and TAYLOR. Referred to Committee on Rural Economic Development and Rural Affairs.

- 1 **AN ACT** *to create* 234.835 of the statutes; **relating to:** creating a neighborhood
2 business revitalization loan guarantee program in the Wisconsin Housing and
3 Economic Development Authority.

Analysis by the Legislative Reference Bureau

This bill creates a Neighborhood Business Revitalization Loan Guarantee Program (program) to be administered by the Wisconsin Housing and Economic Development Authority (WHEDA). Under the program, WHEDA may guarantee repayment of a certain portion of a loan made by a private lender to an eligible borrower. The bill defines an eligible borrower as both of the following: 1) a small business with its principal place of business in this state and an annual gross revenue of less than \$1,000,000 if the owner of the business or a person proposing to acquire the business is or will be actively engaged in the business and if the project proposed by the owner or prospective owner involves expanding the business (eligible business borrower); or 2) a developer if the project proposed by the developer involves developing or rehabilitating commercial real estate or mixed-use properties and the developer is actively engaged in the project.

Proceeds of a loan guaranteed under the program may be used on an eligible project, including any of the following: a) the purchase or improvement of real property by an eligible borrower; b) the expansion or acquisition of a small business by an eligible business borrower; c) the funding of leasehold improvements by an eligible business borrower; and d) the funding of permanent or revolving working capital by an eligible business borrower. An eligible business borrower may also

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refinance existing debt if the borrower also expands an existing business. The bill requires WHEDA to give priority to projects located in an area designated as a business area under the State Main Street Program or in an area designated as a business improvement district.

WHEDA may guarantee up to the lesser of \$750,000 or 75 percent of the principal of a loan if the proceeds of the loan are used on an eligible project that involves the acquisition of fixed assets or inventory or permanent working capital, and up to the lesser of \$200,000 or 75 percent of the principal of a loan if the proceeds of the loan are used on an eligible project that involves revolving working capital.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 234.835 of the statutes is created to read:

2 **234.835 Neighborhood business revitalization loan guarantee**
3 **program. (1) DEFINITIONS.** In this section:

4 (a) "Mixed-use property" means real property with both commercial and
5 residential components.

6 (b) "Small business" means a business that has its principal place of business
7 in this state and that has an annual gross revenue of less than \$1,000,000.

8 **(2) GUARANTEE REQUIREMENTS; PRIORITY.** (a) The authority may use money from
9 the Wisconsin development reserve fund to guarantee a loan under this section if all
10 of the following apply:

11 1. The borrower qualifies as an eligible borrower under sub. (3).

12 2. The loan qualifies as an eligible loan under sub. (4).

13 3. The lender enters into an agreement under s. 234.93 (2) (a).

14 (b) The authority shall give priority to an eligible borrower seeking guarantee
15 of an eligible loan under this section if the project proposed by the borrower is located
16 within either of the following:

17 1. A business area selected for revitalization under s. 238.127.

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1 2. A business improvement district created under s. 66.1109.

2 **(3) ELIGIBLE BORROWER.** Any of the following qualifies as an eligible borrower
3 if unable to obtain adequate business financing on reasonable terms:

4 (a) A small business owner or person proposing to acquire a small business to
5 which all of the following apply:

6 1. The owner of the business or the person proposing to acquire the business
7 is or will be actively engaged in the business.

8 2. The project proposed by the owner of the business or the person proposing
9 to acquire the business is an eligible project under sub. (4) (a) that involves
10 expanding the size or scope of the business.

11 3. The name of any individual who owns or controls any portion of the business
12 or of any individual proposing to acquire the business does not appear on the
13 statewide support lien docket under s. 49.854 (2) (b) or, if the name of the owner of
14 the business or of the person proposing to acquire the business appears on that
15 docket, the owner of the business or the person proposing to acquire the business
16 provides to the authority a payment agreement that has been approved by the county
17 child support agency under s. 59.53 (5) and that is consistent with rules promulgated
18 under s. 49.858 (2) (a).

19 (b) A developer to which all of the following apply:

20 1. The project proposed by the developer is an eligible project under sub. (4) (a)
21 that involves developing or rehabilitating commercial real estate, including
22 mixed-use properties, where a business occupies a portion of the commercial real
23 estate.

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1 2. The developer is actively engaged in the project described in subd. 1. This
2 subdivision does not require the developer to locate its business in the commercial
3 real estate described in subd. 1.

4 3. The name of any individual who owns or controls any portion of the developer
5 does not appear on the statewide support lien docket under s. 49.854 (2) (b) or, if the
6 name of the developer appears on that docket, the developer provides to the authority
7 a payment agreement that has been approved by the county child support agency
8 under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2)
9 (a).

10 **(4) ELIGIBLE LOANS.** A loan is eligible for guarantee of collection from the
11 Wisconsin development reserve fund under s. 234.93 if all of the following apply:

12 (a) The borrower uses the loan proceeds for direct or related expenses
13 associated with any of the following eligible projects:

14 1. The purchase or improvement of real property, including mixed-use
15 property, by an eligible borrower under sub. (3).

16 2. The expansion or acquisition of a small business, including the purchase or
17 improvement of land, buildings, machinery, equipment, or inventory, by an eligible
18 borrower under sub. (3) (a).

19 3. The funding of leasehold improvements by an eligible borrower under sub.
20 (3) (a).

21 4. The funding of permanent or revolving working capital by an eligible
22 borrower under sub. (3) (a).

23 5. The financing of soft costs not to exceed 5 percent of eligible project costs by
24 an eligible borrower under sub. (3).

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1 (b) The interest rate on the loan, including any origination fees or other
2 charges, is approved by the authority and the interest rate on the loan does not
3 exceed the prime lending rate at the time the rate is set, as reported by the federal
4 reserve board in federal reserve statistical release H. 15, plus 2.75 percent.

5 (c) The lender secures the loan by the assets being financed and believes that
6 it is reasonably likely that the borrower will be able to repay the loan in full with
7 interest.

8 (d) The lender agrees to the percentage of guarantee established for the loan
9 by the authority.

10 (e) The authority believes that the eligible project will have a positive impact
11 on the creation or retention of jobs in this state.

12 (f) The borrower does not use loan proceeds to refinance existing debt or for
13 entertainment expenses, expenses related to the production of an agricultural
14 commodity, as defined in s. 94.67 (2), or expenses related to a community-based
15 residential facility, except that the borrower may use loan proceeds to refinance
16 existing debt if the borrower is an eligible borrower under sub. (3) (a) and if the
17 borrower also expands an existing business.

18 **(5) GUARANTEE OF REPAYMENT.** (a) The authority may guarantee repayment of
19 a portion of the principal of any loan eligible for a guarantee under sub. (2). Subject
20 to pars. (b) and (c), the authority shall establish the portion of the principal of an
21 eligible loan that will be guaranteed, using the procedures described in the
22 agreement under s. 234.93 (2) (a). The authority may establish a single portion for
23 all guaranteed loans that do not exceed \$250,000 and a single portion for all
24 guaranteed loans that exceed \$250,000 or establish on an individual basis different

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1 portions for eligible loans that do not exceed \$250,000 and different portions for
2 eligible loans that exceed \$250,000.

3 (b) For an eligible project under sub. (4) (a) that involves the acquisition of fixed
4 assets or inventory or permanent working capital, the portion of the principal of a
5 loan eligible for a guarantee under sub. (2) may not exceed 75 percent of the principal
6 of the loan or \$750,000, whichever is less. The guarantee under this paragraph may
7 not extend 5 years beyond the date on which the lender disburses the loan.

8 (c) For an eligible project under sub. (4) (a) that involves revolving working
9 capital, the portion of the principal of a loan eligible for a guarantee under sub. (2)
10 may not exceed 75 percent of the principal of the loan or \$200,000, whichever is less.
11 The guarantee under this paragraph may not extend 2 years beyond the date on
12 which the lender disburses the loan.

13 (END)