



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3547/1
MPG&EKL:kjf

2019 ASSEMBLY BILL 544

October 14, 2019 - Introduced by Representatives NYGREN, TRANEL, SUMMERFIELD, KITCHENS, ROHRKASTE, BORN, PETRYK, ZIMMERMAN, KERKMAN, KULP, KURTZ, OLDENBURG, PLUMER, DITTRICH, FELZKOWSKI, TUSLER, MURSAU and QUINN, cosponsored by Senators TESTIN, BERNIER and FEYEN. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 76.67 (2); and *to create* 16.309 (4), 71.07 (8f), 71.10 (4) (fd),
2 71.28 (8f), 71.30 (3) (cu), 71.47 (8f), 71.49 (1) (cu), 76.6395 and 234.045 of the
3 statutes; **relating to:** workforce housing tax credits and economic development
4 revolving loan funds.

Analysis by the Legislative Reference Bureau

Workforce housing tax credits

This bill creates a workforce housing tax credit program administered by the Wisconsin Housing and Economic Development Authority.

Under the bill, WHEDA may certify a person to claim a nonrefundable credit to offset income and franchise taxes if all of the following conditions are satisfied:

1. The project for which the credit is issued is an eligible workforce housing project. Under the bill, a project is an eligible workforce housing project only if the project is for the construction or renovation of residential real property located in a county with a population density of less than 155 persons per square mile, there is a need for additional manufacturing workers in the area in which the project is located, and a lack of adequate housing in the area is a barrier to filling that need.

2. The person is a lender financing an eligible workforce housing project, the developer of the project, or the business for whose benefit the project is being carried out.

3. The person has exhausted all funding available for the project from community development block grants, local assistance, including tax incremental financing, and assistance otherwise available from WHEDA.

ASSEMBLY BILL 544

4. The occupants of the housing being constructed or renovated will have a household income that satisfies the income limitations applicable for the homeownership mortgage loan program administered by WHEDA under current law.

The bill requires WHEDA to establish a competitive process for the award of tax credits that gives priority to all of the following:

1. The number of jobs that will be created in connection with the eligible workforce housing project.

2. The amount of matching funds secured by the applicant.

3. The applicant's readiness to proceed with the project.

Under the bill, WHEDA may not certify a person to claim a workforce housing tax credit in an amount that exceeds 50 percent of the total cost of the eligible workforce housing project. Additionally, WHEDA may not award more than \$10,000,000 in workforce housing tax credits and no credit may be awarded after December 31, 2021. The bill requires WHEDA to transfer \$10,000,000 from its surplus fund to the state's general fund as an offset against the tax credits WHEDA awards under the program.

Additionally, the bill includes certain contracting and tax credit revocation requirements and requires WHEDA to coordinate with the Wisconsin Economic Development Corporation to administer the tax credit program. WHEDA must submit a report on the program to the Joint Committee on Finance no later than September 31, 2022.

Reports on economic development revolving loan funds

This bill also requires the Department of Administration to submit an annual report to the Joint Committee on Finance concerning moneys held by DOA in connection with economic development revolving loan funds funded by federal community development block grants administered by DOA, including all moneys derived from the liquidation and close-out of such a revolving loan fund. The report must include all of the following:

1. The balance of the account associated with each revolving loan fund.

2. The accounts receivable for each such account.

3. A detailed description of all expenditures from the account, including a description of each project funded by a grant awarded from the account.

4. A detailed description of all expenditures from the account DOA intends to make before March 15 of the year following the report. Under the bill, if JCF objects to any such intended expenditure, JCF may reallocate the moneys consistent with federal requirements for expenditure of the moneys.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

ASSEMBLY BILL 544

1 **SECTION 1.** 16.309 (4) of the statutes is created to read:

2 16.309 (4) (a) In this subsection, “revolving loan fund account” means all
3 moneys held by the department in connection with each economic development
4 revolving loan fund that is funded by a community development block grant under
5 this section, including all moneys derived from the liquidation and close-out of the
6 revolving loan fund.

7 (b) Annually, no later than March 15, the department shall submit a report to
8 the joint committee on finance that includes all of the following information for each
9 revolving loan fund account:

10 1. The account balance.

11 2. All accounts receivable, if any.

12 3. A detailed description of all account expenditures, including a description
13 of each project funded by a grant awarded from the account.

14 4. A detailed description of all account expenditures the department intends
15 to make before March 15 of the year following the report.

16 (c) If the joint committee on finance objects to any intended expenditure of
17 moneys detailed under par. (b) 4., the committee may reallocate those moneys
18 consistent with federal requirements for expenditure of the moneys.

19 **SECTION 2.** 71.07 (8f) of the statutes is created to read:

20 71.07 (8f) WORKFORCE HOUSING CREDIT. (a) *Definitions.* In this subsection:

21 1. “Allocation certificate” means an allocation certificate issued by the
22 Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

23 2. “Claimant” means a person who files a claim under this subsection.

24 (b) *Filing claims.* For taxable years beginning after December 31, 2019, subject
25 to the limitations provided in this subsection and in s. 234.045, a claimant may claim

ASSEMBLY BILL 544

1 as a credit against the tax imposed under s. 71.02, up to the amount of the tax, the
2 amount specified in the allocation certificate.

3 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
4 claimant includes with the claimant's return a copy of the allocation certificate.

5 2. A partnership, limited liability company, or tax-option corporation may not
6 claim the credit under this subsection, but the eligibility for and amount of the credit
7 are based on the amount specified in the allocation certificate. A partnership, limited
8 liability company, or tax-option corporation shall compute the amount of credit that
9 each of its partners, members, or shareholders may claim and shall provide that
10 information to each of them. Partners, members, and shareholders may claim the
11 credit in proportion to their ownership interests.

12 (d) *Carry-forward credit.* If the credit that a claimant may claim under par.
13 (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due,
14 the unused balance shall be carried forward and credited against Wisconsin income
15 or franchise taxes otherwise due for the following 10 taxable years to the extent not
16 offset by these taxes in all intervening years between the year in which the credit is
17 allowed under the allocation certificate and the year in which the carry-forward
18 credit is claimed.

19 (e) *Transfer.* Any person may sell or otherwise transfer the credit under par.
20 (b), in whole or in part, to another person who is subject to the taxes or fees imposed
21 under s. 71.02, 71.23, or 71.43 or subch. III of ch. 76 if the person notifies the
22 department of the transfer and submits with the notification a copy of the transfer
23 documents, and the department certifies the change in the credit's ownership.

24 (f) *Administration.* Section 71.28 (4) (e), (g), and (h), as it applies to the credit
25 under s. 71.28 (4), applies to the credit under this subsection.

ASSEMBLY BILL 544

1 **SECTION 3.** 71.10 (4) (fd) of the statutes is created to read:

2 71.10 (4) (fd) Workforce housing credit under s. 71.07 (8f).

3 **SECTION 4.** 71.28 (8f) of the statutes is created to read:

4 71.28 (8f) WORKFORCE HOUSING CREDIT. (a) *Definitions.* In this subsection:

5 1. “Allocation certificate” means an allocation certificate issued by the
6 Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

7 2. “Claimant” means a person who files a claim under this subsection.

8 (b) *Filing claims.* For taxable years beginning after December 31, 2019, subject
9 to the limitations provided in this subsection and in s. 234.045, a claimant may claim
10 as a credit against the tax imposed under s. 71.23, up to the amount of the tax, the
11 amount specified in the allocation certificate.

12 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
13 claimant includes with the claimant’s return a copy of the allocation certificate.

14 2. A partnership, limited liability company, or tax-option corporation may not
15 claim the credit under this subsection, but the eligibility for and amount of the credit
16 are based on the amount specified in the allocation certificate. A partnership, limited
17 liability company, or tax-option corporation shall compute the amount of credit that
18 each of its partners, members, or shareholders may claim and shall provide that
19 information to each of them. Partners, members, and shareholders may claim the
20 credit in proportion to their ownership interests.

21 (d) *Carry-forward credit.* If the credit that a claimant may claim under par.
22 (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due,
23 the unused balance shall be carried forward and credited against Wisconsin income
24 or franchise taxes otherwise due for the following 10 taxable years to the extent not
25 offset by these taxes in all intervening years between the year in which the credit is

ASSEMBLY BILL 544

1 allowed under the allocation certificate and the year in which the carry-forward
2 credit is claimed.

3 (e) *Transfer.* Any person may sell or otherwise transfer the credit under par.
4 (b), in whole or in part, to another person who is subject to the taxes or fees imposed
5 under s. 71.02, 71.23, or 71.43 or subch. III of ch. 76 if the person notifies the
6 department of the transfer and submits with the notification a copy of the transfer
7 documents, and the department certifies the change in the credit's ownership.

8 (f) *Administration.* Subsection (4) (e), (g), and (h), as it applies to the credit
9 under sub. (4), applies to the credit under this subsection.

10 **SECTION 5.** 71.30 (3) (cu) of the statutes is created to read:

11 71.30 (3) (cu) Workforce housing credit under s. 71.28 (8f).

12 **SECTION 6.** 71.47 (8f) of the statutes is created to read:

13 71.47 (8f) WORKFORCE HOUSING CREDIT. (a) *Definitions.* In this subsection:

14 1. "Allocation certificate" means an allocation certificate issued by the
15 Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

16 2. "Claimant" means a person who files a claim under this subsection.

17 (b) *Filing claims.* For taxable years beginning after December 31, 2019, subject
18 to the limitations provided in this subsection and in s. 234.045, a claimant may claim
19 as a credit against the tax imposed under s. 71.43, up to the amount of the tax, the
20 amount specified in the allocation certificate.

21 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
22 claimant includes with the claimant's return a copy of the allocation certificate.

23 2. A partnership, limited liability company, or tax-option corporation may not
24 claim the credit under this subsection, but the eligibility for and amount of the credit
25 are based on the amount specified in the allocation certificate. A partnership, limited

ASSEMBLY BILL 544

1 liability company, or tax-option corporation shall compute the amount of credit that
2 each of its partners, members, or shareholders may claim and shall provide that
3 information to each of them. Partners, members, and shareholders may claim the
4 credit in proportion to their ownership interests.

5 (d) *Carry-forward credit.* If the credit that a claimant may claim under par.
6 (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due,
7 the unused balance shall be carried forward and credited against Wisconsin income
8 or franchise taxes otherwise due for the following 10 taxable years to the extent not
9 offset by these taxes in all intervening years between the year in which the credit is
10 allowed under the allocation certificate and the year in which the carry-forward
11 credit is claimed.

12 (e) *Transfer.* Any person may sell or otherwise transfer the credit under par.
13 (b), in whole or in part, to another person who is subject to the taxes or fees imposed
14 under s. 71.02, 71.23, or 71.43 or subch. III of ch. 76 if the person notifies the
15 department of the transfer and submits with the notification a copy of the transfer
16 documents, and the department certifies the change in the credit's ownership.

17 (f) *Administration.* Section 71.28 (4) (e), (g), and (h), as it applies to the credit
18 under s. 71.28 (4), applies to the credit under this subsection.

19 **SECTION 7.** 71.49 (1) (cu) of the statutes is created to read:

20 71.49 (1) (cu) Workforce housing credit under s. 71.47 (8f).

21 **SECTION 8.** 76.6395 of the statutes is created to read:

22 **76.6395 Workforce housing credit. (1) DEFINITIONS.** In this section:

23 (a) "Allocation certificate" means an allocation certificate issued by the
24 Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

25 (b) "Claimant" means a person who files a claim under this subsection.

ASSEMBLY BILL 544

1 **(2) FILING CLAIMS.** For taxable years beginning after December 31, 2019,
2 subject to the limitations provided in this section and in s. 234.045, a claimant may
3 claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67
4 the amount specified in the allocation certificate.

5 **(3) LIMITATIONS.** No person may claim the credit under sub. (2) unless the
6 claimant includes with the claimant's return a copy of the allocation certificate.

7 **(4) CARRY-FORWARD.** If the credit that a claimant may claim under sub. (2) is
8 not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67
9 otherwise due, the unused balance shall be carried forward and credited against
10 those fees for the following 10 taxable years to the extent not offset by the fees in all
11 intervening years between the year in which the credit is allowed under the
12 allocation certificate and the year in which the carry-forward credit is claimed.

13 **(5) TRANSFER.** Any person may sell or otherwise transfer the credit under sub.
14 (2), in whole or in part, to another person who is subject to the taxes or fees imposed
15 under s. 71.02, 71.23, 71.43, 76.60, 76.63, 76.65, 76.66, or 76.67 if the person notifies
16 the department of the transfer and submits with the notification a copy of the
17 transfer documents, and the department certifies the change in the credit's
18 ownership.

19 **SECTION 9.** 76.67 (2) of the statutes is amended to read:

20 **76.67 (2)** If any domestic insurer is licensed to transact insurance business in
21 another state, this state may not require similar insurers domiciled in that other
22 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
23 a domestic insurer is required to pay to that other state for the same year less the
24 credits under ss. 76.635, 76.636, 76.637, 76.638, 76.639, 76.6395, and 76.655, except
25 that the amount imposed shall not be less than the total of the amounts due under

ASSEMBLY BILL 544

1 ss. 76.65 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375 percent of its
2 gross premiums, as calculated under s. 76.62, less offsets allowed under s. 646.51 (7)
3 or under ss. 76.635, 76.636, 76.637, 76.638, 76.639, 76.6395, and 76.655 against that
4 total, and except that the amount imposed shall not be less than the amount due
5 under s. 601.93.

6 **SECTION 10.** 234.045 of the statutes is created to read:

7 **234.045 Workforce housing tax credits. (1) DEFINITIONS.** In this section:

8 (a) "Allocation certificate" means a statement issued by the authority certifying
9 that an eligible recipient may claim tax benefits and specifying the amount of the tax
10 benefits that the eligible recipient may claim.

11 (b) "Lender" means any banking institution, savings bank, savings and loan
12 association, or credit union organized under the laws of this state.

13 (c) "Tax benefits" means the tax credit under ss. 71.07 (8f), 71.28 (8f), 71.47 (8f),
14 and 76.6395.

15 **(2) ESTABLISHMENT OF PROGRAM.** The authority shall establish and administer
16 a program under this section for the award of tax benefits to encourage the creation
17 of workforce housing in this state.

18 **(3) CERTIFICATIONS.** (a) The authority may certify a person to claim tax benefits
19 in an amount determined by the authority by issuing the person an allocation
20 certificate. The allocation certificate shall state the amount the authority
21 determines the person is eligible to claim.

22 (b) With respect to any eligible workforce housing project, the authority may
23 issue an allocation certificate under par. (a) to only one of the following:

24 1. The lender financing the project.

25 2. The business for whose benefit the project is being carried out.

ASSEMBLY BILL 544

1 3. The developer of the project.

2 (c) A project is an eligible workforce housing project under par. (b) only if all of
3 the following requirements are satisfied:

4 1. The project is for the construction or renovation of residential real property
5 that is located in a county with a population density of less than 155 persons per
6 square mile.

7 2. The person applying for tax benefits demonstrates to the satisfaction of the
8 authority that there is a need for additional manufacturing workers in the area in
9 which the project is located and that a lack of adequate housing in the area is a
10 barrier to filling that need.

11 3. The occupants of the housing being constructed or renovated will have a
12 household income that satisfies the income limitations applicable for home
13 ownership mortgage loans under s. 234.59.

14 (d) The authority may not issue an allocation certificate to a person under par.
15 (b) unless the person demonstrates to the satisfaction of the authority that the
16 person has exhausted all funding available from the following:

17 1. Community development block grants.

18 2. Local assistance, including tax incremental financing.

19 3. All assistance otherwise available under programs administered by the
20 authority.

21 (e) The authority may charge a fee to applicants for allocation certificates under
22 par. (a) for the authority's administrative costs under this section.

23 **(4) LIMITATIONS.** (a) The authority may not certify a person to claim tax benefits
24 under sub. (3) (a) in an amount that exceeds 50 percent of the total cost of the eligible
25 workforce housing project.

ASSEMBLY BILL 544

1 (b) The aggregate amount of all tax benefits for which the authority certifies
2 persons in allocation certificates issued under sub. (3) (a) may not exceed
3 \$10,000,000.

4 **(5) CONTRACT AND REVOCATION REQUIREMENTS.** (a) The authority shall contract
5 with each recipient of an allocation certificate under sub. (3) (a). The contract shall
6 establish the terms and conditions under which the recipient may claim tax benefits.

7 (b) The authority shall revoke a person's allocation certificate, and the person
8 shall repay to the authority all tax benefits already claimed by the person, if the
9 person does any of the following:

10 1. Supplies false or misleading information to obtain an allocation certificate
11 under sub. (3) (a).

12 2. Supplies false or misleading information to obtain tax benefits.

13 3. Breaches the person's contract with the authority under par. (a).

14 **(6) POLICIES AND PROCEDURES.** (a) The authority, in consultation with the
15 department of revenue, shall establish policies and procedures to administer this
16 section.

17 (b) The policies and procedures under par. (a) shall establish a competitive
18 process for the award of allocation certificates under sub. (3) (a) that gives priority
19 to all of the following:

20 1. The number of jobs that will be created in connection with the eligible
21 workforce housing project.

22 2. The amount of additional funding for the project the applicant has secured
23 from nonstate sources.

24 3. The applicant's readiness to proceed with the project.

