2009 DRAFTING REQUEST

Bill

Received: **04/19/2010**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Glenn Grothman (608) 266-7513**

By/Representing: **himself**

May Contact:

Drafter: **pkahler**

Subject: **Public Assistance - med. assist.**
Public Assistance - Wis works
Public Assistance - food stamps
Econ. Development - housing
Education - MPS
Higher Education - miscellaneous

Addl. Drafters: **tkuczens**
mshovers
gmalaise
pgrant

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Grothman@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Various changes to eligibility for various programs

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pkahler	csicilia		_____			S&L
	04/20/2010	04/21/2010		_____			Tax
	gmalaise			_____			
	04/20/2010			_____			
	tkuczens			_____			
	04/20/2010			_____			
	mshovers			_____			

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
	04/20/2010			_____			
/1	pkahler 04/22/2010	csicilia 04/22/2010	phenry 04/21/2010	_____ _____ _____	cduerst 04/21/2010	sbasford 04/22/2010	S&L Tax Housing
/2			mduchek 04/22/2010	_____ _____	lparisi 04/22/2010	lparisi 04/22/2010	

FE Sent For: "/2" @ intro. 4/22/10

<END>

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	tkuczens 04/20/2010	/2 gs 4/22					
	mshovers		10				

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/1			phenry 04/21/2010	_____ _____	cduerst 04/21/2010	sbasford 04/22/2010	

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	04/20/2010			_____			
	tkuczens			_____			
	04/20/2010			_____			
	mshovers			_____			

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/1			phenry 04/21/2010	_____ _____	cduerst 04/21/2010		

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Extra Copies: EUM

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Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

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See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pkahler	/1 cjs 4/21/10	~~4/21~~	~~4/21~~			State
/1	NFS, PJK, + HK GMM PG	4/20/10	~~4/21~~ ph	~~4/21~~ ph/18			

FE Sent For:

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LRB-4710

April 16, 2010

LRB

~~Fiscal Bureau~~,

I would like to request a bill changing a substantial number of benefits which low-income Wisconsin recipients receive. I am aware that right now many of these benefits are received from the federal government and Wisconsin cannot change these benefits without a waiver from the federal government. I am also aware that many of these programs are directly administered by the federal government or counties and cities and that any changes must be conditioned upon federal approval. I would therefore like an all-encompassing provision in this bill that requests waivers from the federal government for these specific provisions to take effect. I would like the following provisions in the bill.

1. **Section 8 Housing.** Any federal Section 8 housing should be limited as follows:
   A. People over 62 years of age.
   B. People who are determined to be permanently disabled.
   C. Anybody else receiving low-income housing shall be restricted to housing in which the square footage is less than 50-percent of the average square footage for a rental unit of average rental value in that county.
   D. In order to administer this provision, the local county may put more than two different families in one unit for non-disabled people under age 62.
   E. It shall be a Class A misdemeanor for an unrelated adult to stay overnight in such a unit if they are not included in the calculation of income for non-disabled people under age 62.
   F. There should be an asset limitation of $2,000 cash value plus an automobile worth less than $10,000 to be eligible for low-income housing for non-disabled people under age 62.

2. **Food Stamps.** In the calculation for eligibility for food stamps:
   A. It shall be a Class A Misdemeanor if any adult stays overnight in a residence which is receiving food stamps and that person's income is not included in the food stamp calculation.
   B. Similar to the WIC program, the Department of Health and Family Services should determine by Rule which foods may be purchased with food stamps. No carbonated beverages or snack foods including potato chips and similar processed foods shall be eligible.
   C. In the event similar foods are available in higher and lower-priced brands, the Department shall restrict food stamp use to the lower-priced brands.

3. **Energy Assistance**
   There should be an asset limitation of $2,000 cash value plus an automobile worth less than $10,000 to be eligible for low-income assistance for non-disabled people under age 62.

4. **Milwaukee School Choice**
   There shall be no income limit for eligibility.

5. **Wisconsin Shares**
   A. Daycare will be restricted to 40 hours per week
   B. A minimum co-pay of $2 per hour will be required.

6. **BadgerCare**
   ~~In determining federal poverty~~, a minimum annual deductible of $500 per family shall be required and at least a 5-percent co-pay for any services above that amount.

7. **Earned Income Tax Credit**
   A. Eliminate the Earned Income Tax Credit and increase the personal exemption by $1,500 per dependent increasing to $2,200 which should be revenue neutral.

8. **Scholarships.**
   For Wisconsin scholarships to technical school and the university system both public and private, any calculation of income for any college scholarships for people under age 22 shall include both father and mother's income regardless of whether or not they are part of the family unit.

Should you have any questions regarding this request, please contact me at 266-7513 or via cell phone at 262-689-8421

Very truly yours,

Glenn Grothman
State Senator

printed by TKK
4/19/2010

SECTION 8 VOUCHER PROGRAM

The WHEDA Housing Choice Voucher Program helps families with very low to extremely low incomes rent decent, safe, sanitary and affordable housing of their choice. In the near future, you'll have access to the necessary forms from this page. Check back often!

ABOUT THE PROGRAM

WHEDA currently works with local agents to serve residents in 37 Wisconsin counties where there are no community programs available.

Eligible families pay between 30-40% of their adjusted income for rent. The balance is subsidized by the U.S. Department of Housing and Urban Development (HUD). Resident portions of the rent are re-evaluated at least once a year.

2010 Payment Standards (PDF 57KB)

The Payment Standard is the maximum amount of assistance that may be paid. This includes both rent to the owner and utilities for which the resident is responsible.

HOW TO APPLY

WHEDA does not distribute or accept Housing Choice Voucher applications in our office. All applications are handled by the agencies with whom we contract. Any requests for applications or questions regarding the status of an application should be directed to our agents. Please refer to the agent list.

An application will ask for the names and Social Security Numbers of all family members who will reside in the unit, family income and assets and other pertinent information.

WAITING LISTS

ELIGIBILITY

A household's annual income may not exceed established limits. The program's income limits are published by HUD on a yearly basis and vary by city or county.

Program eligibility is determined by:

- the number of members in a household,
- a family's gross annual income, and
- criminal background checks.

Once an application has been submitted the agency will verify the information given to determine eligibility.

ROLES AND RESPONSIBILITIES

There are three components to a Housing Choice Voucher:

- the voucher;
- the lease; and
- the HAP Contract.

Read more about the roles and responsibilities of tenant, landlord, and agency.

UNIT SELECTION

- A voucher will specify unit size and the maximum rent and utilities allowed
- Maximum assistance paid will be the lesser of:
  - the payment standard, or
  - gross rent minus 30% of adjusted

Placement on a waiting list is based on the time and date of application.

Unreasonably long waiting lists can be closed by the agent maintaining it. Applications are not accepted in counties with closed waiting lists. When a waiting list is opened announcements are published in the local newspapers.

MOVING WITH A VOUCHER

A WHEDA voucher holder may not move during their first year (twelve months) term. After that year, the family may move to any district that has a voucher program, subject to funding limitations. The WHEDA program limits moves to one every twelve months.

income

- A voucher may be used at a holder's current residence if it qualifies
- A selected unit must pass a physical inspection annually.

Subsidy can only be paid on a unit that has a passed inspection, a signed lease and a signed HAP contract. The resident is responsible for rent if a lease is signed before the unit passes inspection.

INFORMATIONAL LINKS

More links coming soon.

HUD Office of Public & Indian Housing

TKK notes: (April 19, 2010) 267-9598

T. conf. w/ Anne Christianson ~~ref~~ WHEDA re: section 8 housing

→ tenant-based voucher goes w/ the person, who can live wherever s/he wants.)

→ project-based: building is a Section 8 bldg. and subsidy stays w/ bldg.

* a project-based building may be established only for elderly or disabled individuals.

→ Federal govt establishes eligibility requirements.

see 24 CFR 982

42 USC 8621-8629 (low-income energy assistance)

12 USC 1715z-1b

→ locally-administered programs (community agents)

also spoke w/ Stefanie Elder @ WHEDA 267-0430

other Federal programs for low-income housing: public housing

tax credits for persons who build or set-aside a # of units or artificially lower rents.

printed by TKK
4/19/2010

Housing Choice Voucher Program Agent List

To apply for the Housing Choice Voucher Program in areas **under WHEDA's jurisdiction**, please contact directly the agent responsible for the county.

AGENT NAME & ADDRESS	COUNTY/COUNTIES SERVED	
Horizon Management Group PO Box 2829 La Crosse, WI 54602-2829 224 N 6th Street La Crosse, WI 54602-2829 608-782-8250 (out of state) 800-333-8250 (in Wisconsin) 608-784-2932 (fax) e-mail: khanna@horizon-management.net	Buffalo Calumet Clark Green Green Lake Jackson Kenosha Kewaunee Manitowoc	Marquette Ozaukee Pepin Rock Sheboygan Vernon Washington Waupaca Waushara
NEWCAP, Inc. 1201 Main St. Oconto, WI 54153 920-834-4621 or 800-242-7334 920-834-4887 (fax)	Florence Forest Langlade Oconto Oneida Vilas Iron Price	

Wausau CDA 550 E. Thomas St Wausau, WI 54403-6442 715-845-4144 715-843-5167 (fax)	Marathon
Central WI CAC, Inc. 1000 Highway 13 PO Box 430 Wisconsin Dells, WI 53940 608-254-8353 608-254-4327 (fax)	Adams Columbia Rusk Taylor
Walworth County Housing Authority 35 S Wisconsin St Elkhorn, WI 53121 262-723-6123 262-723-2079 (fax)	Walworth
CAC So. Central WI 114 E Main St Watertown, WI 53094 920-262-9667 920-2622-9559 (fax)	Jefferson
Housing Authority of the County of Washburn 1403 Scribner St #1 Spooner, WI 54801 (715) 635-2321 (877) 832-5504 (715) 635-2761 (fax)	Washburn
North Central CAP 608A E 2nd St Merrill, WI 54452 715-536-9581 (phone/fax)	Lincoln
WEST CAP, Inc. 525 Second St PO Box 308 Glenwood City, WI 54013 715-265-4271 or 800-606-9227 715-265-7031 (fax)	St. Croix Pierce

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4710/?
PK,TK,MS,PG,GM:.....

cjs

D-NOTE

In 4/20 wanted 4/21

Gen Cat

INSERT TKK relating clause

1 AN ACT ...; **relating to:** authorized foods under the food stamp program; a
2 deductible and coinsurance under BadgerCare Plus; a minimum copayment
3 and maximum child care hours under Wisconsin Shares; consideration of the
4 income and assets of both parents of a student under 22 years of age for
5 purposes of awarding a grant or scholarship to such a student; prohibiting new
6 claims under the earned income tax credit; increasing the individual income tax
7 personal exemption for dependents; granting rule-making authority; and
8 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes with respect to benefits for which low-income state residents are eligible.

BadgerCare Plus

BadgerCare Plus (BC+) is a Medical Assistance (MA) program, administered by DHS, that provides health care benefits under two different plans, depending on the basis for a recipient's eligibility, to recipients who satisfy financial and nonfinancial eligibility criteria. The first plan provides the same benefits that are provided, and requires the same cost sharing that is required, under regular MA. The second plan, called the Benchmark Plan, provides specified benefits with specified cost sharing requirements. The bill requires recipients under both plans to pay an annual deductible of $500 and coinsurance of five percent of costs exceeding

the deductible. DHS must request a waiver from the secretary of the federal department of health and human services if DHS determines that it needs a waiver to implement the new cost sharing.

Food stamp program

Under current law, DHS administers the federal food stamp program, now known as the Supplemental Nutrition Assistance Program (SNAP), which assists eligible low-income individuals to purchase food. The bill requires DHS to promulgate rules that specify the foods that an individual may purchase under the program. DHS is prohibited from allowing soft drinks and snack foods, such as potato chips, to be purchased under the program and must require individuals to purchase a lower-priced brand of a food item that is available in both lower-priced and higher-priced brands. In addition, the bill makes it a Class A misdemeanor (punishable by a fine of up to $10,000 or imprisonment for up to nine months, or both) for a person to spend the night in the house of a member of a household that is eligible for food stamps if the person's income is not considered in determining the eligibility of the household for food stamps. These changes will not be implemented, however, if DHS determines that a waiver is needed unless federal law allows a waiver to be requested and a waiver is granted.

Wisconsin Shares

The Wisconsin Works (W-2) program under current law, which is administered by the Department of Children and Families (DCF), provides work experience and benefits for low-income custodial parents who are at least 18 years old, as well as a child care subsidy program, known as Wisconsin Shares, under which an individual who is the parent of a child under the age of 13 or, if the child is disabled, under the age of 19, and who satisfies other eligibility criteria may receive a child care subsidy for child care services that the individual needs to participate in various educational or work activities. Current law provides that no more than 12, or in some cases up to 16, hours of subsidized child care may be authorized per child per day. The bill imposes a limit on the amount of child care for which a subsidy may be provided of 40 hours per week per child. Also under current law, a child care subsidy recipient must pay a copayment for child care that is a percentage of the cost specified by DCF in a copayment schedule. The bill sets a minimum copayment of $2 per hour per child.

TPS Anal TKK

Higher education grants and scholarships

Under current law, the Higher Educational Aids Board (HEAB) awards certain grants based on financial need. Those grants include Wisconsin higher education grants for students enrolled in public institutions of higher education or tribal colleges in this state, tuition grants for students enrolled in private institutions of higher education in this state, and minority undergraduate grants for minority students enrolled in private institutions of higher education or technical colleges in this state.

Currently, those grants are awarded based on a formula that accounts for expected parental and student contributions and that is consistent with nationally approved needs analysis methodology. Under current federal law setting forth that needs analysis methodology, parental income and assets for a dependent student

whose parents are divorced or separated is determined by including only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application or, if that criterion does not apply, only the income and assets of the parent who provided the greater support during that 12-month period.

This bill requires HEAB, in determining the expected parental contribution for a student under 22 years of age who is a dependent of his or her parents, to include in the parental income and assets that are available for that contribution the income and assets of both of the student's parents. The bill also prohibits the Board of Regents of the University of Wisconsin System from awarding a scholarship that is based on financial need to a student under 22 years of age who is a dependent of his or her parents unless the calculation of the student's financial need includes consideration of the income and assets of both of the student's parents.

Local housing authorities

Under current law, any city, village, or town may create a housing authority, which may acquire, lease, and operate housing projects for persons of low income. A housing authority may accept grants from the federal government for any housing project that the authority undertakes.

This bill requires a local housing authority to impose limits on eligibility for persons of low income that are similar to the limits on eligibility that WHEDA and the Department of Commerce are required to impose under the bill.

Taxation

Under federal law, the earned income tax credit (EITC) is a refundable tax credit for low-income workers. If the amount of the claim exceeds the worker's tax liability, the claimant receives a check for the excess amount from the Internal Revenue Service. The amount of the credit for which a claimant is eligible is based, in part, on whether the claimant has no qualifying children, one qualifying child, or more than one qualifying child.

Under current law, the refundable Wisconsin EITC may be claimed in an amount equal to a certain percentage of the federal basic EITC. To be eligible for the Wisconsin EITC, an individual must have one or more qualifying children. The Wisconsin EITC is equal to 4 percent of the federal credit if the claimant has one qualifying child, 14 percent of the federal credit if the claimant has two qualifying children, and 43 percent of the federal credit if the claimant has three or more qualifying children.

Under this bill, no new claims under the Wisconsin EITC may be filed for a taxable year that begins after December 31, 2010.

Under current law, an individual income tax personal exemption exists in the amount of $700 for each taxpayer who is required to file an income tax return and $700 for the taxpayer's spouse, except if the spouse is filing separately or as a head of household. A taxpayer may also claim a $700 exemption for each dependent for whom he or she is entitled to claim an exemption under the Internal Revenue Code. In general, an additional exemption of $250 may be claimed by a taxpayer, and spouse, who has reached the age of 65 before the close of the taxable year to which his or her tax return relates.

add space between the paragraphs here

This bill increase the personal exemption for dependents from $700 to $2,200.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

INS 3-1

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

SECTION 1. 36.11 (56) of the statutes is created to read:

36.11 **(56)** SCHOLARSHIPS. The board may not award a scholarship that is based in whole or in part on financial need to any student under the age of 22 who is a dependent of his or her parents unless the board's calculation of financial need includes consideration of the income and assets of both of the student's parents.

SECTION 2. 39.435 (4) (a) of the statutes is amended to read:

39.435 **(4)** (a) The board shall award grants under this section based on a formula that accounts for expected parental and student contributions and <u>that, except as provided in par. (b),</u> is consistent with generally accepted definitions and nationally approved needs analysis methodology.

History: 1973 c. 90; 1973 c. 335 s. 13; 1975 c. 39, 189, 224; 1977 c. 26 s. 75; 1979 c. 34; 1983 a. 27 ss. 926d to 926t, 2202 (22); 1985 a. 332 s. 251 (1); 1987 a. 27; 1989 a. 31; 1993 a. 399; 1995 a. 27, 404; 1997 a. 27; 1999 a. 9, 185; 2001 a. 109; 2003 a. 33; 2005 a. 25, 367; 2007 a. 20; 2009 a. 28, 182.

SECTION 3. 39.435 (4) (b) of the statutes is created to read:

39.435 **(4)** (b) In determining the expected parental contribution for a student under 22 years of age who is a dependent of his or her parents, the board shall include in the parental income and assets that are available for that contribution the income and assets of both of the student's parents.

SECTION 4. 39.44 (3) (a) of the statutes is amended to read:

1 39.44 **(3)** (a) Award grants to eligible students on the basis of financial need,
2 as determined by the board, using the needs analysis methodology used under s.
3 39.435.

History: 1985 a. 29; 1987 a. 27; 1993 a. 399; 1995 a. 27, 404; 1997 a. 27; 1999 a. 9; 2001 a. 16.

4 **SECTION 5.** 49.155 (5) of the statutes is amended to read:

5 49.155 **(5)** LIABILITY FOR PAYMENT. An individual is liable for the percentage of
6 the cost of the child care specified by the department in a printed copayment
7 schedule, except that the department shall require a minimum copayment of $2 per
8 hour of child care per child. An individual who is under the age of 20 and is attending
9 high school or participating in a course of study meeting the standards established
10 under s. 115.29 (4) for the granting of a declaration of equivalency to high school
11 graduation may not be determined liable for more than the minimum copayment
12 amount for the type of child care received and the number of children receiving child
13 care.

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20; 2009 a. 28, 76, 77, 185.

14 **SECTION 6.** 49.155 (6g) (a) 2. of the statutes, as created by 2009 Wisconsin Act
15 28, is amended to read:

16 49.155 **(6g)** (a) 2. Except as provided in subd. 3. and subject to subd. 5., the
17 department shall authorize no more than 12 hours of child care per day per child.

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20; 2009 a. 28, 76, 77, 185.

18 **SECTION 7.** 49.155 (6g) (a) 3. of the statutes, as created by 2009 Wisconsin Act
19 28, is amended to read:

20 49.155 **(6g)** (a) 3. ~~The~~ Subject to subd. 5., department may authorize more than
21 12 hours, not exceeding 16 hours, of child care per day for a child whose parent

1 provides written documentation of work or transportation requirements that exceed
2 12 hours in a day.

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165; 2007 a. 20; 2009 a. 28, 76, 77, 185.

3 **SECTION 8.** 49.155 (6g) (a) 5. of the statutes is created to read:

4 49.155 **(6g)** (a) 5. The department may not authorize more than 40 hours of
5 child care per week for a child.

6 **SECTION 9.** 49.471 (11c) of the statutes is created to read:

7 49.471 **(11c)** DEDUCTIBLE AND COINSURANCE. Notwithstanding subs. (10) and
8 (11), the department shall require an annual deductible of $500 per family for
9 services provided under BadgerCare Plus and coinsurance of at least 5 percent of the
10 cost of services received after the deductible has been paid. If the department
11 determines that it needs a waiver to require the deductible and coinsurance
12 payments under this subsection, the department shall request a waiver from the
13 secretary of the federal department of health and human services and may not
14 impose the deductible and coinsurance requirements under this subsection unless
15 the waiver is granted and in effect.

16 **SECTION 10.** 49.79 (7m) of the statutes is created to read:

17 49.79 **(7m)** AUTHORIZED FOODS. The department shall by rule specify foods that
18 may be purchased with food stamp coupons. The department may not authorize soda
19 water beverages, as defined in s. 97.29 (1) (i), or snack foods, such as potato chips or
20 similar processed food products, to be purchased with food stamp coupons. The
21 department shall require that food stamp coupons be used to purchase a
22 lower-priced brand of a food item if similar food items are available in lower-priced
23 and higher-priced brands.

24 **SECTION 11.** 49.79 (10) of the statutes is created to read:

49.79 **(10)** WAIVER FOR IMPLEMENTATION. Notwithstanding sub. (7m) and s. 49.795 (6m) and (8) (g), if the department determines that it may not implement the requirements under sub. (7m) or impose the penalty under s. 49.795 (8) (g) for a violation of s. 49.795 (6m) without a federal waiver, the department shall request a waiver from the secretary of the federal department of agriculture, if such a waiver may be requested under federal law, and may not implement the requirements under sub. (7m) or impose the penalty under s. 49.795 (8) (g) for a violation of s. 49.795 (6m) unless both of the following are satisfied:

(a) The waiver may be requested under federal law.

(b) The waiver is granted and in effect.

SECTION 12. 49.795 (6m) of the statutes is created to read:

49.795 **(6m)** No person may spend the night in the home of a member of a household certified as eligible for the food stamp program unless that person's income is considered in determining the eligibility of the household for the food stamp program.

SECTION 13. 49.795 (8) (a) (intro.) of the statutes is amended to read:

49.795 **(8)** (a) (intro.) ~~For~~ Except as provided in par. (g), for a first offense under this section:

History: 2001 a. 16 s. 1656tz; Stats. 2001 s. 49.795; 2001 a. 109.

SECTION 14. 49.795 (8) (b) (intro.) of the statutes is amended to read:

49.795 **(8)** (b) (intro.) ~~For~~ Except as provided in par. (g), for a 2nd or subsequent offense under this section:

History: 2001 a. 16 s. 1656tz; Stats. 2001 s. 49.795; 2001 a. 109.

SECTION 15. 49.795 (8) (c) of the statutes is amended to read:

49.795 **(8)** (c) ~~For~~ Except as provided in par. (g), for any offense under this section, if the value of the food coupons is $5,000 or more, a person who violates this section is guilty of a Class G felony.

History: 2001 a. 16 s. 1656tz; Stats. 2001 s. 49.795; 2001 a. 109.

SECTION 16. 49.795 (8) (g) of the statutes is created to read:

49.795 **(8)** (g) Any person who violates sub. (6m) is guilty of a Class A misdemeanor and subject to the penalty under s. 939.51 (3)(a).

SECTION 17. 66.1204 of the statutes is created to read:

66.1204 Limitations on eligibility. (1) (a) In its role under 42 USC 1437f as a public housing agency, as defined in 24 CFR 982.4 (b), an authority may not provide assistance payments to any person unless the person satisfies one of the following:

1. The person is disabled, as defined in s. 49.468 (1) (a) 1.

2. The person is age 62 or older.

(b) An authority shall ensure that all of the following requirements are satisfied in connection with housing or housing assistance provided directly or indirectly by the authority, or by a state public body with which it contracts, to any person of low income:

1. Any housing provided to a person of low income shall be restricted to housing in which the square footage is less than 50 percent of the average square footage for a rental unit of average rental value in the county in which the person of low income resides. In order to satisfy the requirements of this subdivision, the authority may require that more than two unrelated persons of low income be housed in one housing unit.

2. a. Except as provided in subd. 2. b., no person or family with assets that exceed $2,000 in combined equity value or with a vehicle having an equity value of $10,000 or greater shall be eligible for housing or housing assistance under this sub chapter.

b. Subdivision 2. a. does not apply to any person who is disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

3. a. Except as provided in subd. 2. b., no adult, as defined in s. 48.02 (1) (d), may spend the night in the home of any person of low income who receives housing or housing assistance in or from any project or program under this subchapter if the income of that adult was not considered in determining the eligibility of the person to receive housing or housing assistance. Any person who violates this subd. 3. a. is guilty of a Class A misdemeanor and subject to the penalty under s. 939.51 (3) (a)

b. Subdivision 3. a. does not apply to any person who is disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

(2) If an authority determines it may not implement the limitations on eligibility and housing under sub. (1) or impose the penalty under sub. (1) (a) 3. a. without a waiver from the federal department of housing and urban development and that such a waiver may be requested under federal law, the authority shall request a waiver. If a waiver that is consistent with sub. (1) is granted and in effect, an authority shall implement the limitations on eligibility and housing under sub. (1). An authority may not implement any limitation under sub. (1) for which a waiver is required unless a waiver as to that limitation is granted and in effect.

SECTION 18. 71.05 (23) (b) 2. of the statutes is amended to read:

71.05 **(23)** (b) 2. An exemption of ~~$700~~ $2,200 for each individual for whom the taxpayer is entitled to an exemption for the taxable year under section 151 (c) of the Internal Revenue Code.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28.

SECTION 19. 71.07 (9e) (~~g~~ h) of the statutes is created to read:

71.07 **(9e)** (~~g~~ h) For taxable years beginning after December 31, 2010, no new claims for a credit under this subsection may be filed.

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SECTION 20. Initial applicability.

(1) FOOD STAMP VIOLATION. The treatment of section 49.795 (6m) and (8) (a) (intro.), (b) (intro.), (c), and (g) of the statutes first applies to violations occurring on the effective date of this subsection or, if the department of health services determines under section 49.79 (10) of the statutes, as created by this act, that a federal waiver is needed, on the date (first day) on which the waiver is granted and in effect.

(2) HIGHER EDUCATION GRANTS AND SCHOLARSHIPS. The treatment of sections 36.11 (56), 39.435 (4) (a) and (b), and 39.44 (3) (a) of the statutes first applies to a grant or scholarship awarded for the 2011-12 academic year.

(3) PERSONAL EXEMPTIONS. The treatment of section 71.05 (23) (b) 2. of the statutes first applies to taxable years beginning after December 31, 2010.

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(END)

D-NOTE

Insert TKK relating clause

eliminating income eligibility requirement for enrollment in a private school participating in the Milwaukee Parental Choice Program; changing eligibility requirements for persons or families of low and moderate income to receive, directly or indirectly, certain housing, housing assistance, grants, loans or benefits from the Wisconsin Housing and Economic Development Authority and the Department of Commerce; consideration of the income and assets of a person for purposes of receiving low-income energy assistance;

Insert 7-16

(0) ELIGIBILITY FOR LOW-INCOME ENERGY ASSISTANCE. The treatment of section 16.27 (5) (intro.) and (5m) of the statutes first applies to the eligibility of households applying for low-income energy assistance under section 16.27 (4) of the statutes on the effective date of this subsection or, if the department of administration determines under section 16.27 (5m) (b) of the statutes, as created by this act, that a federal waiver is needed, on the date on which the waiver is granted and in effect.

(1) ELIGIBILITY FOR PARTICIPATION IN THE MILWAUKEE PARENTAL CHOICE PROGRAM. The treatment of section 119.23 (2) (a) 1. of the statutes first applies to a pupil attending a private school participating in the program under section 119.23 of the statutes in the 2010-11 school year.

(2) ELIGIBILITY FOR HOUSING ASSISTANCE; COMMERCE. The treatment of sections 560.9803 (1) (a), 560.9803 (2m), 560.9805 (2) (d) and (3), and 560.9806 (2) (a) and (c) of the statutes first applies to housing, housing costs, utility-related costs, grants or loans provided, directly or indirectly, by the department of commerce to persons and

families of low and moderate income on the effective date of this subsection or, if the department of commerce determines under section 560.9803 (2m) (b) of the statutes, as created by this act, that a federal waiver is needed, on the date on which the waiver is granted and in effect.

(3) VIOLATION OF ELIGIBILITY REQUIREMENTS; COMMERCE. The treatment of section 560.9803 (2m) (a) 3. of the statutes first applies to violations occurring on the effective date of this subsection or, if the department of commerce determines under section 560.9803 (2m) (b) of the statutes, as created by this act, that a federal waiver is needed, on the date on which the waiver is granted and in effect.

(4) ELIGIBILITY FOR HOUSING ASSISTANCE; WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY. The treatment of sections 234.03, 234.038, 234.04 (1), (2) and (3), 234.06 (1) and (3), 234.49 (2) (a) (intro.), 234.59 (2) (intro.), and 234.592 (2) of the statutes first applies to assistance payments, housing, housing assistance, grants, or loans provided, directly or indirectly, by the Wisconsin housing and economic development authority to persons and families of low and moderate income on the effective date of this subsection or, if the Wisconsin housing and economic development authority determines under section 234.038 (2) of the statutes, as created by this act, that a federal waiver is needed, on the date on which the waiver is granted and in effect.

(5) VIOLATION OF ELIGIBILITY REQUIREMENTS; WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY. The treatment of section 234.038 (1) (b) 3. of the statutes first applies to violations occurring on the effective date of this subsection or, if the Wisconsin housing and economic development authority determines under section 234.038 (2) of the statutes, as created by this act, that a federal waiver is needed, on the date on which the waiver is granted and in effect.

1 **Insert analysis TKK**

Milwaukee Parental Choice Program pupil eligibility

Under the Milwaukee Parental Choice Program (MPCP), a pupil who resides in the city of Milwaukee and who is a member of a family that has a total family income that does not exceed 1.75 times the poverty level may attend a private school at state expense under certain conditions. This bill eliminates as a condition for participating in the MPCP the requirement that a pupil be a member of a family with limited family income.

Low-income energy assistance

Under current law, the Department of Administration administers a program that provides low-income energy assistance to eligible households, including households with incomes of less than 60 percent of the statewide median household income and households composed entirely of individuals receiving Aid to Families with Dependent Children or Supplemental Security Income. This bill makes ineligible for low-income energy assistance a household with assets that exceed $2,000 in cash equity value or a vehicle with an equity value of $10,000 or greater.

Wisconsin Housing and Economic Development Authority low-income housing assistance

Under current law, the Wisconsin Housing and Economic Development Authority (WHEDA) administers several programs that provide assistance to persons and families of low and moderate income to obtain housing. Eligibility for the programs is established in both the Wisconsin statutes and under federal law, including the Housing Choice Voucher Program administered by the Federal Department of Housing and Urban Development (HUD). Funding for these programs is provided from a number of sources, including bonds issued by WHEDA under its statutory authority and from the federal government.

This bill requires WHEDA to impose the following limits on eligibility for families and persons of low and moderate income seeking housing assistance directly or indirectly through WHEDA:

1. No person may receive housing assistance from HUD through WHEDA unless the person is disabled or aged 62 or older. The bill defines "disabled" to mean blind as established under federal law or disabled as established under federal law.

2. Any persons or families of low and moderate income who receive housing or housing assistance directly or indirectly from WHEDA shall be subject to the following limitations:

a. The persons or families of low and moderate income shall be restricted to housing in which the square footage is less than 50 percent of the average square footage for a rental unit of average rental value in the county in which the persons or families reside. In order to satisfy this requirement, WHEDA may require that more than two unrelated persons and families of low and moderate income be housed in one housing unit.

b. With two exceptions, persons or families of low and moderate income with assets that exceed $2,000 in cash equity value or a vehicle with an equity value of $10,000 or greater may receive housing or housing assistance from WHEDA. This prohibition does not apply to a person who is disabled or aged 62 or older.

c. No adult may spend the night in the home of any person or family of low and moderate income who receives housing or housing assistance directly or indirectly from WHEDA if the income of that adult was considered in determining the eligibility of the persons and families to receive housing or housing assistance. The bill defines "adult" as a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained 17 years of age. Any person who violates this prohibition is guilty of a Class A misdemeanor.

If WHEDA determines that it may not implement the limitations and prohibitions established under the bill without a waiver of federal law from HUD and that a waiver of federal law is available, WHEDA must apply for and obtain a waiver from HUD before it may implement the limitations and prohibitions.

Department of Commerce low-income housing assistance

Under current law, the Department of Commerce (Commerce) may make grants or loans, directly or through agents designated by the department, to persons or families of low or moderate income to defray housing costs, including utility costs, and may make grants to community-based organizations, organizations operated for profit, or housing authorities to improve the ability of these entities to provide housing opportunities for persons or families of low or moderate income.

This bill requires Commerce to impose limits on eligibility and housing for families and persons of low and moderate income seeking housing assistance directly or indirectly through Commerce. Any persons or families of low and moderate income who receive housing in or assistance with housing costs, assistance with utility-related costs, grants, or loans from any project or program administered by Commerce as described above shall be subject to the following limitations:

1. The persons or families of low and moderate income shall be restricted to housing in which the square footage is less than 50 percent of the average square footage for a rental unit of average rental value in the county in which the persons or families reside. In order to satisfy this requirement, Commerce may require more than two unrelated persons and families of low and moderate income in one housing unit.

2. With two exceptions, persons or families of low and moderate income with assets that exceed $2,000 in cash equity value or a vehicle with an equity value of $10,000 or greater may receive housing or assistance with housing costs or utility-related costs, from Commerce. This prohibition does not apply to a person who is disabled or aged 62 or older.

3. No adult may spend the night in the home of any person or family of low and moderate income who receives housing or assistance with housing costs or utility-related costs or who benefits from a housing assistance grant or loan made by Commerce if the income of that adult was not considered in determining the

eligibility of the persons or families to receive housing, assistance, or benefits. Any person who violates this prohibition is guilty of a Class A misdemeanor.

If Commerce determines that it may not implement the limitations and prohibitions established under the bill without a waiver of federal law from HUD and that a waiver of federal law is available, Commerce must apply for and obtain a waiver from HUD before it may implement the limitations and prohibitions.

1 **Insert 3-1**

2 **SECTION 1.** 16.27 (5) (intro.) of the statutes is amended to read:

3 16.27 **(5)** ELIGIBILITY. (intro.) Subject to the requirements of subs. (4) (b) and

4 (8) and except as provided in sub. (5m), the following shall receive low-income energy

5 assistance under this section:

History: 1985 a. 29 ss. 1055g, 2488h to 2488n; 1985 a. 176, 332; 1987 a. 27; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 2336, 3182 to 3207; Stats. 1995 s. 16.385; 1995 a. 77, 417; 1999 a. 9; 2003 a. 33 s. 162; Stats. 2003 s. 16.27; 2003 a. 321 s. 11; 2003 a. 327 s. 5; 2005 a. 25, 344; 2009 a. 11, 28.

6 **SECTION 2.** 16.27 (5m) of the statutes is created to read:

7 16.27 **(5m)** LIMITATIONS ON ELIGIBILITY. (a) 1. Except as provided in subd. 2, a

8 household with assets that exceed $2,000 in combined equity value or with a vehicle

9 having an equity value of $10,000 or greater shall not be eligible for low-income

10 energy assistance under this section.

11 2. Subdivision 1. does not apply if any individual member of the household is

12 disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

13 (b) If the department of administration determines it may not implement the

14 requirement under par. (a) 1. without a waiver from the federal department of health

15 and human services and that such a waiver may be requested under federal law, the

16 authority shall request a waiver from the secretary of the federal department of

17 health and human services. If a waiver that is consistent with par. (a) 1. is granted

18 and in effect, the department of administration shall implement the limitation on

19 eligibility under par. (a) 1. If a waiver is required, The department of administration may not implement

20 the limitation on eligibility under par. (a) 1. unless a waiver is granted and in effect.

(end of insert)

21 **SECTION 3.** 234.03 (intro.) of the statutes is amended to read:

Insert 7-b

material moved from 9-12

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234.03 Powers of authority. (intro.) ~~The~~ Subject to the limitations on eligibility for projects or programs and housing benefitting persons and families of low and moderate income under s. 234.038, the authority shall have all the powers necessary or convenient to implement this chapter, including the following powers in connection with its projects or programs, in addition to all other powers granted by this chapter:

History: 1971 c. 287; 1973 c. 208, 333; 1975 c. 221; 1977 c. 418; 1981 c. 349 ss. 12, 32; 1983 a. 27 ss. 1622e to 1622m, 2202 (20); 1983 a. 81; 1983 a. 83 ss. 7, 8, 22; 1983 a. 192; 1985 a. 29 ss. 2242, 3200 (28); 1985 a. 334; 1987 a. 27, 399; 1993 a. 16, 112, 437; 1997 a. 27; 2005 a. 22, 75, 487; 2007 a. 125; 2009 a. 2.

SECTION 4. 234.038 of the statutes is created to read:

234.038 Limitations on eligibility for projects or programs and housing benefitting persons and families of low and moderate income. (1) (a) In its role under 42 USC 1437f as a public housing agency, as defined in 24 CFR 982.4 (b), the authority may not provide assistance payments to any person unless the person satisfies one of the following:

1. The person is disabled, as defined in s. 49.468 (1) (a) 1.

2. The person is age 62 or older.

(b) The authority shall ensure that all of the following requirements are satisfied in connection with housing or housing assistance provided directly or indirectly by the authority or by an eligible sponsor, housing corporation, financial institution, limited profit entity, or nonprofit corporation to any persons and families of low and moderate income:

1. Any housing provided to the persons and families of low and moderate income shall be restricted to housing in which the square footage is less than 50 percent of the average square footage for a rental unit of average rental value in the county in which the persons and families reside. In order to satisfy the requirements

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of this subdivision, the authority may require that more than two unrelated persons and families of low and moderate income be housed in one housing unit.

2. a. Except as provided in subd. 2. b., no person or family with assets that exceed $2,000 in combined equity value or with a vehicle having an equity value of $10,000 or greater shall be eligible for housing or housing assistance under this chapter.

b. Subdivision 2. a. does not apply to any person who is disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

3. a. Except as provided in subd. 2. b., no adult, as defined in s. 48.02 (1) (d), may spend the night in the home of any persons and families of low and moderate income who receive housing or housing assistance in or from any project or program under this chapter if the income of that adult was considered in determining the eligibility of the persons and families to receive housing or housing assistance. Any person who violates this subd. 3. a. is guilty of a Class A misdemeanor.

b. Subdivision 3. a. does not apply to any person who is disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

(2) If the authority determines it may not implement the limitations on eligibility and housing under sub. (1) or impose the penalty under sub. (1) (a) 3. a. without a waiver from the federal department of housing and urban development and that such a waiver may be requested under federal law, the authority shall request a waiver. If a waiver that is consistent with sub. (1) is granted and in effect, the authority shall implement the limitations on eligibility and housing under sub. (1). The authority may not implement any limitation under sub. (1) for which a waiver is required unless a waiver as to that limitation is granted and in effect.

SECTION 5. 234.04 (1) of the statutes is amended to read:

234.04 **(1)** ~~The~~ Subject to the limitations on eligibility for projects or programs and housing benefitting persons and families of low and moderate income under s. 234.038, the authority may make or participate in the making of construction loans to eligible sponsors of housing projects for the construction or rehabilitation of housing for persons and families of low and moderate income. Such loans shall be made only upon the determination by the authority that construction loans are not otherwise available from private lenders upon reasonably equivalent terms and conditions.

History: 1971 c. 287; 1975 c. 221; 1977 c. 418; 1979 c. 361 s. 113; 1981 c. 349; 1985 a. 29; 1987 a. 27, 359; 1991 a. 221; 1995 a. 404; 1999 a. 9; 2009 a. 2.

SECTION 6. 234.04 (2) of the statutes is amended to read:

234.04 **(2)** ~~The~~ Subject to the limitations on eligibility for projects or programs and housing benefitting persons and families of low and moderate income under s. 234.038, the authority may make or participate in the making and enter into commitments for the making of long-term mortgage loans to eligible sponsors of housing projects for occupancy by persons and families of low and moderate income, or for the making of homeownership mortgage loans or housing rehabilitation loans or loans for the refinancing of qualified subprime loans under s. 234.592 to persons and families of low and moderate income, an applicant under s. 234.59 or 234.592, or other eligible beneficiaries as defined in s. 234.49. The loans may be made only upon the determination by the authority that they are not otherwise available from private lenders upon reasonably equivalent terms and conditions. The authority may not make a loan to a person whose name appears on the statewide support lien docket under s. 49.854 (2) (b), unless the person provides to the authority a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a). The

authority may employ, for such compensation as it determines, the services of any financial institution in connection with any loan.

History: 1971 c. 287; 1975 c. 221; 1977 c. 418; 1979 c. 361 s. 113; 1981 c. 349; 1985 a. 29; 1987 a. 27, 359; 1991 a. 221; 1995 a. 404; 1999 a. 9; 2009 a. 2.

SECTION 7. 234.04 (3) of the statutes is amended to read:

234.04 **(3)** ~~The~~ Subject to the limitations on eligibility for projects or programs and housing benefitting persons and families of low and moderate income under s. 234.038, the authority may make or participate in the making and enter into commitments for the making of loans to any banking institution, savings bank, savings and loan association or credit union organized under the laws of this or any other state or of the United States having an office in this state, if the authority first determines that the proceeds of such loans will be utilized for the purpose of making long-term mortgage loans to persons or families of low and moderate income, or for the purpose of providing residential housing for occupancy by persons or families of low and moderate income, or for the purpose of making housing rehabilitation loans.

History: 1971 c. 287; 1975 c. 221; 1977 c. 418; 1979 c. 361 s. 113; 1981 c. 349; 1985 a. 29; 1987 a. 27, 359; 1991 a. 221; 1995 a. 404; 1999 a. 9; 2009 a. 2.

SECTION 8. 234.06 (1) of the statutes is amended to read:

234.06 **(1)** ~~The~~ Subject to the limitations on eligibility for projects or programs and housing benefitting persons and families of low and moderate income under s. 234.038, the authority may, as authorized in the state housing strategy plan under s. 560.9802, use the moneys held in the housing development fund to make temporary loans to eligible sponsors, with or without interest, and with such security for repayment, if any, as the authority determines reasonably necessary and practicable, solely from the housing development fund, to defray development costs for the construction of proposed housing projects for occupancy by persons and families of low and moderate income. No temporary loan may be made unless the

1 authority may reasonably anticipate that satisfactory financing may be obtained by
2 the eligible sponsor for the permanent financing of the housing project.

History: 1971 c. 287; 1981 c. 349; 1985 a. 29 ss. 2118, 3202 (14); 1991 a. 39; 2003 a. 33.

3 **SECTION 9.** 234.06 (3) of the statutes is amended to read:

4 234.06 **(3)** ~~The~~ Subject to the limitations on eligibility for projects or programs
5 and housing benefitting persons and families of low and moderate income under s.
6 234.038, the authority may, as authorized in the state housing strategy plan under
7 s. 560.9802, use the moneys held in the housing development fund to establish and
8 administer programs of grants to counties, municipalities and eligible sponsors of
9 housing projects for persons of low and moderate income, to pay organizational
10 expenses, administrative costs, social services, technical services, training expenses
11 or costs incurred or expected to be incurred by counties, municipalities or sponsors
12 for land and building acquisition, construction, improvements, renewal,
13 rehabilitation, relocation or conservation under a plan to provide housing or related
14 facilities, if the costs are not reimbursable from other private or public loan, grant
15 or mortgage sources.

History: 1971 c. 287; 1981 c. 349; 1985 a. 29 ss. 2118, 3202 (14); 1991 a. 39; 2003 a. 33.

16 **SECTION 10.** 234.49 (2) (a) (intro.) of the statutes is amended to read:

17 234.49 **(2)** (a) (intro.) ~~The~~ Subject to the limitations on eligibility for projects
18 or programs and housing benefitting persons and families of low and moderate
19 income under s. 234.038, the authority has the following powers for the purpose of
20 implementing this section, in addition to all other powers granted by this chapter:

History: 1977 c. 418; 1979 c. 110 s. 60 (13); 1979 c. 361 s. 59; Stats. 1979 s. 560.06; 1981 c. 21, 314; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1985 a. 29 ss. 2124d, 2244 to 2260, 3200 (14), 3202 (14); 1985 a. 120; Stats. 1985 s. 234.49; 1987 a. 27, 359, 395; 1987 a. 403 s. 256; 1989 a. 346; 1991 a. 39, 221, 269; 1993 a. 437; 1995 a. 27 ss. 6303, 9126 (19); 1995 a. 201, 404; 1997 a. 3; 1999 a. 9; 1999 a. 150 s. 672; 2005 a. 75; 2009 a. 2.

21 **SECTION 11.** 234.59 (2) (intro.) of the statutes is amended to read:

22 234.59 **(2)** POWERS AND DUTIES OF THE AUTHORITY. (intro.) The authority shall,
23 subject to the limitations on eligibility for projects or programs and housing

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1 benefitting persons and families of low and moderate income under s. 234.038,
2 establish and administer a homeownership mortgage loan program to encourage
3 homeownership and to facilitate the acquisition or rehabilitation of eligible property
4 by applicants. To implement the program, the authority:

History: 1981 c. 349; 1983 a. 82, 192; 1985 a. 29 ss. 2127, 2261 to 2269, 3200 (14); 1985 a. 332; Stats. 1985 s. 234.59; 1987 a. 27, 359; 1987 a. 403 s. 256; 1989 a. 31, 346; 1991 a. 221; 1993 a. 286, 287; 1995 a. 27, 404; 1999 a. 9; 2005 a. 75, 441; 2007 a. 97; 2009 a. 2.

5 **SECTION 12.** 234.592 (2) (intro.) of the statutes is amended to read:

6 234.592 **(2)** POWERS AND DUTIES OF THE AUTHORITY. (intro.) The authority shall,
7 subject to the limitations on eligibility for projects or programs and housing
8 benefitting persons and families of low and moderate income under s. 234.038,
9 establish and administer a qualified subprime loan refinancing program to
10 encourage homeownership and to facilitate the retention of eligible property by
11 applicants. To implement the program, the authority:

History: 2009 a. 2.

12 **SECTION 13.** 119.23 (2) (a) 1. of the statutes is repealed.

move to beginning of Insert 7-6 (page 3 of this document)

13 **SECTION 14.** 560.9803 (1) (a) of the statutes is amended to read:

14 560.9803 **(1)** (a) Subject to sub. (2) and the limitations on eligibility and housing
15 under sub. (2m), make grants or loans, directly or through agents designated under
16 s. 560.9804, from the appropriation under s. 20.143 (2) (b) to persons or families of
17 low or moderate income to defray housing costs of the person or family.

History: 1989 a. 31; 1991 a. 39; 2001 a. 109; 2003 a. 33 s. 153; Stats. 2003 s. 560.9803.

18 **SECTION 15.** 560.9803 (2m) of the statutes is created to read:

19 560.9803 **(2m)** (a) The department shall ensure that all of the following
20 requirements are satisfied in connection with housing, housing costs, utility-related
21 costs, grants, or loans provided, directly or indirectly, under this subchapter by the
22 department or by a community-based organization, housing authority, or

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designated agent under s. 560.9804 to any persons and families of low and moderate income:

1. Any housing provided to the persons and families of low and moderate income shall be restricted to housing in which the square footage is less than 50 percent of the average square footage for a rental unit of average rental value in the county in which the persons and families reside. In order to satisfy the requirements of this subdivision, the department may require that more than two unrelated persons and families of low and moderate income be housed in one housing unit.

2. a. Except as provided in subd. 2. b., no person or family with assets that exceed $2,000 in combined equity value or with a vehicle having an equity value of $10,000 or greater shall be eligible for housing, housing costs, or utility-related costs or may benefit from any grants or loans made under this subchapter.

b. Subdivision 2. a. does not apply to any person who is disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

3. a. Except as provided in subd. 2. b., no adult, as defined in s. 48.02 (1) (d), may spend the night in the home of any persons and families of low and moderate income who receive housing, assistance with housing costs, assistance with utility-related costs, or who benefits from any grants or loans made under this subchapter if the income of that adult was not considered in determining the eligibility of the persons and families to receive the housing, assistance, or benefits. Any person who violates this subd. 3. a. is guilty of a Class A misdemeanor.

b. Subdivision 3. a. does not apply to any person who is disabled, as defined in s. 49.468 (1) (a) 1., or is aged 62 or older.

(b) If the department of commerce determines it may not implement the limitations on eligibility and housing under par. (a) or impose the penalty under par.

(a) 3. a. without a waiver from the federal department of housing and urban development and that such a waiver may be requested under federal law, the department of commerce shall request a waiver. If a waiver that is consistent with par. (a) is granted and in effect, the department of commerce shall implement the limitations on eligibility and housing under par. (a). The department of commerce may not implement any limitation under par. (a) for which a waiver is required unless a waiver as to that limitation is granted and in effect.

SECTION 16. 560.9805 (2) (d) of the statutes is created to read:

560.9805 **(2)** (d) The department determines that the grant is consistent with and will not be used in violation of the limitations on eligibility and housing under s. 560.9803 (2m).

SECTION 17. 560.9805 (3) of the statutes is amended to read:

560.9805 **(3)** A community-based organization, organization operated for profit or housing authority may, subject to the limitations on eligibility and housing under sub. (2) (d), receive grants under both sub. (1) (a) and (b).

History: 1989 a. 31; 1991 a. 39 s. 124; Stats. 1991 s. 16.336; 1997 a. 27; 2003 a. 33 s. 155; Stats. 2003 s. 560.9805.

SECTION 18. 560.9806 (2) (a) of the statutes is amended to read:

560.9806 **(2)** (a) From the appropriation under s. 20.143 (2) (fm), the department may award a grant to an eligible applicant for the purpose of providing transitional housing and associated supportive services to homeless individuals and families if the conditions under ~~par.~~ pars. (b) and (c) are satisfied. The department shall ensure that the funds for the grants are reasonably balanced among geographic areas of the state, consistent with the quality of applications submitted.

History: 1991 a. 39, 269; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 s. 156; Stats. 2003 s. 560.9806; 2007 a. 20.

SECTION 19. 560.9806 (2) (c) of the statutes is created to read:

1 560.9806 **(2)** (c) A recipient of a grant under par. (a) shall agree to comply with
2 the limitations on eligibility and housing for persons and families of low and
3 moderate income under s. 560.9803 (2m) (a).
4 (end of insert)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4710/?dn
PK,TK,MS,PG,GM:...
gjs

date

MS/EM/TK

Senator Grothman:

We are not able to determine whether the income and asset limits in created s. 66.1204 (1) (b) 2. are consistent with the definition of "persons of low income" in s. 66.1201 (3) (m), which is determined independently by each housing authority in the state. Similarly, we are not able to determine whether the income and asset limits created in s. 234.038 (1) (b) 2. are consistent with the definition of "persons and families of low and moderate income" under s. 234.01 (10). Do you want to change the current law definition of "persons of low income" or "persons and families of low and moderate income?"

Sections 66.1204 (1) (b) 3., 234.038 (1) (b) 3., and 560.9803 (2m) (a) 3. contain provisions similar to the following: "no adult . . . may spend the night in the home of any person of low income who receives housing or housing assistance in or from any project or program under this subchapter if the income of that adult was not considered in determining the eligibility of the person to receive housing or housing assistance. Any person who violates this subd. 3. a. is guilty of a Class A misdemeanor."

Although we have not had time to conduct extensive legal research on this topic, it is possible that these provisions could be challenged as a violation of an individual's constitutional right to freedom of association, privacy, and right to due process. Specifically, if these provisions become law, it could be argued that a person of low income is being denied the right to freely associate with an adult of his or her choosing without being subject to a penalty. Similar penalties do not apply to an individual who receives medical assistance, SSI, or many other government benefits other than housing assistance.

em-dash

In the area of freedom of association, the U.S. Supreme Court has recognized two distinct lines of cases -- one of which deals with personal relationships. Regarding these, the "Court has concluded that choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central to our constitutional scheme. In this respect, freedom of association receives protection as a fundamental element of personal liberty. . . . The Court has long recognized that, because the Bill of Rights is designed to secure individual liberty, it must afford the formation and preservation of certain kinds of highly personal

relationships a substantial measure of sanctuary from unjustified interference by the State." *Roberts v. United States Jaycees,* 468 U.S. 609, 617-618 (1984).

The application of this rule to created ss. 66.1204 (1) (b) 3., 234.038 (1) (b) 3., and 560.9803 (2m) (a) 3. is not clear. In one case, *McKenna v. Peekskill Housing Authority* 647 F.2d 332 (2nd Circuit 1981), the court held that a housing authority's rule that a tenant must disclose to the landlord the names of those persons whom the tenant wishes to have as overnight guests improperly limited the tenant's freedom to associate and right to privacy. The court held that while the housing authority had a legitimate interest in maintaining safe, decent housing and keeping track of occupancy, its rule was neither reasonable nor the least intrusive means to achieve its goal.

Basing its decision on 42 USC 1437d (l) (2) and 24 C.F.R. 966.4 (d) (1), the federal district court in *Diggs by Diggs v. The City of Frederick Housing Authority,* 67 F. Supp. 2d 522 (1999), "finds that the [federal housing] regulation substantively prohibits public housing authorities from unreasonably interfering with tenants' ability to entertain guests in the tenants' public housing apartments." *Diggs* at 532. Although we are not certain, it appears that these federal statutes and regulations apply to public housing authorities in this state.

Other cases, however, such as *Thompson v. Ashe*, 250 F. 3d 399 (6th Circuit 2001), have taken a much more narrow view of the rights of individuals to visit tenants of public housing developments. In *Thompson*, the court held that the housing authority's "no trespass" policy, which placed on the "banned" list persons involved in drug activity or violent criminal activities without employing any formal criteria, did not violate the rights of a would-be visitor. In fact, the *Thompson* court held that the plaintiff, Mr. Thompson, "has no fundamental right to visit his family members on KCDC property." *Thompson* at 407.

It is difficult to predict how a court would rule should this bill become law and should someone challenge the provisions contained in ss. 66.1204 (1) (b) 3., 234.038 (1) (b) 3., and 560.9803 (2m) (a) 3., but we thought that you should at least be aware of some of the leading cases in this area. Please let us know if you have any further questions about this issue.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4710/1dn
MS/EM/TK:cjs:ph

April 21, 2010

Senator Grothman:

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Kahler, Pam

From: Shovers, Marc
Sent: Thursday, April 22, 2010 9:02 AM
To: Kahler, Pam; Malaise, Gordon; Kuczenski, Tracy
Subject: FW: Urgent Drafting Request - 1 Addition to LRB 4710/1

Importance: High

Pam, I think this piece is yours. I need to add an init. app. provision like the one Tracy drafted for WHEDA and Commerce, so please let me have it back before you put it in editing. Thanks.

Marc

From: Sen.Grothman
Sent: Thursday, April 22, 2010 8:54 AM
To: Shovers, Marc
Subject: Urgent Drafting Request - 1 Addition to LRB 4710/1
Importance: High

Marc,

We would appreciate it if you would include a provision to LRB 4710/1 requiring folks receiving public assistance to pass standard drug tests as a condition of eligibility. We would appreciate receiving this as soon as possible this morning.

Thank you.

- Senator Grothman's Office