

CR 88-96

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CERTIFICATE

STATE OF WISCONSIN)

SS

DEPARTMENT OF DEVELOPMENT)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruno J. Mauer, Secretary and custodian of the official records of the Department of Development, do hereby certify that the annexed emergency rules relating to the certification of economic development loans to be financed by the Wisconsin Housing and Economic Development Authority were duly approved and adopted by this Department on September 15, 1988.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary at 123 West Washington Avenue in the City of Madison, this 15th day of September, 1988.



Bruno J. Mauer

BMJ:saj
0804e

11-1-88

ORDER OF THE DEPARTMENT OF DEVELOPMENT
AMENDING CHAPTER DOD 9
WISCONSIN ADMINISTRATIVE CODE

The Department of Development adopts an order to renumber DOD 9.03 (1) to (13) to DOD 9.03 (2) to (14) and to renumber DOD 9.03 (14) and (15) to DOD 9.03 (17) and (18); to amend DOD 9.03 (6); and to create DOD 9.03 (1), (15), (16) and (19) of the Wisconsin Administrative Code, relating to rules for the certification of economic development loans to be financed by the Wisconsin Housing and Economic Development Authority.

Analysis Prepared by the Department of Development

Statutory authority: ss. 234.65 (1m) and 560.02 (4), Stats.

Statute interpreted: s. 234.65 (3) (d), Stats.

In this order, the Department of Development creates four new definitions and revises an existing definition for use in its certification of economic development loans to be financed by the Wisconsin Housing and Economic Development Authority.

1983 Wisconsin Act 83 provided the Wisconsin Housing and Economic Development Authority with the authority to establish economic development programs and to fund them through the issuance of taxable and tax-exempt bonds and notes. Section 234.65 (3m), Stats., as created by 1983 Wisconsin Act 83, stipulates that the Department of Development must certify that an economic development loan complies with the six conditions established under s. 234.65 (3), Stats., in order for the Wisconsin Housing and Economic Authority to finance the loan. Section 234.65 (1m), Stats., requires the Department to promulgate rules to implement the certification process. Chapter DOD 9, Wisconsin Administrative Code, defines the key terms for the Department's certification of economic development loans and also specifies the certification process.

In implementing the certification process, the Department has found that four statutory terms, "affiliate," "subsidiary," "parent company," and "person," need to be defined. In addition, the Department has found that the term, "current gross annual sales," needs clarification. The absence of clear definitions has impeded the ability of the Wisconsin Housing and Economic Development Authority to make decisions on the eligibility of certain loan applicants under its Business Development Bond program. These rules define and clarify the statutory terms, and thus, will enable the Wisconsin Housing and Economic Development Authority to make determinations on the eligibility of certain loan applicants.

Text of Rule

SECTION 1. DOD 9.03 (1) to (13) are renumbered DOD 9.03 (2) to (14) and DOD 9.03 (14) and (15) are renumbered DOD 9.03 (17) and (18), respectively.

SECTION 2. DOD 9.03 (1) is created to read:

DOD 9.03 (1) "Affiliate" means a person that directly or indirectly through one or more intermediaries, (a) has 80 percent voting control of another person, (b) 80 percent of whose voting control is owned by another person, or (c) is in 80 percent common voting control with another person.

SECTION 3. DOD 9.03 (6), as renumbered, is amended to read:

DOD 9.03 (6) "Current gross annual sales" means the gross business income of the borrower prior to the purchase of the land, plant or equipment to be permanently financed with the proceeds of the authority's economic development loan. The determination of gross business income shall be based on the average of the most recent 2 years of total company sales transactions as substantiated by the firm's 2 most recent federal or state tax returns or other such financial statements acceptable to the authority and the department.

SECTION 4. DOD 9.03 (15), (16) and (19) are created to read:

DOD 9.03 (15) "Parent company" means a person that directly owns more than 80 percent voting control of another person.

DOD 9.03 (16) "Person" has the meaning specified in s. 990.01 (26), Stats.

DOD 9.03 (19) "Subsidiary" means a person, more than 80 percent of whose voting control is owned directly by another person.

Note: The 80 percent voting and value test is consistent with the Internal Revenue Code of 1986, 26. U.S.C., s. 1504 (a), which defines "affiliated group," and s. 1563 (a)(1), which defines "parent-subsidiary controlled groups."

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (Intro), Stats.

Date: 9/15/88

Agency: 
Bruno J. Mauer
Secretary

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