
Wisconsin Legislative Council

ACT MEMO



Prepared by: Ethan Lauer, Senior Staff Attorney

August 9, 2023

2023 Wisconsin Act 18
[2023 Assembly Bill 268]

**Commercial-to-Housing
Conversion Loan Fund**

2023 Wisconsin Act 18 creates a commercial-to-housing conversion revolving loan fund and loan fund program.

REVOLVING LOAN FUND

The act creates a commercial-to-housing conversion revolving loan fund under the jurisdiction and control of the Wisconsin Housing and Economic Development Authority (WHEDA). The fund consists of amounts appropriated to it and amounts received from the repayment of loans. Of the appropriations to the fund in the 2023-25 fiscal biennium,¹ WHEDA must return to the Department of Administration for deposit in the general fund any such amounts not encumbered or expended for an eligible project as of January 1, 2031.

LOANS TO DEVELOPERS

Under the program, a developer may apply to WHEDA for a loan to cover construction costs, including demolition, of a construction project for the conversion of a vacant commercial building to a new residential housing development² that consists of workforce housing³ or senior housing⁴ if the building meets the following requirements:

- The building has been vacant for at least one year or has been underutilized, as determined by WHEDA.
- The building's current zoning permits a residential use.⁵

The housing must remain workforce housing or senior housing for 10 years following initial occupancy. That restriction must be recorded against the residential property with the register of deeds and must run with the land.

¹ 2023 Wisconsin Act 19, the 2023-25 biennial budget act, appropriated \$100 million to the fund in fiscal year 2023-24.

² A residential housing development means single-family or multi-family housing for rent or for sale that consists of 16 or more dwelling units.

³ "Workforce housing" is housing that costs a household no more than 30 percent of 140 percent of area median income (or 100 percent of area median income in the case of rental housing) and is for occupancy by individuals whose household median income does not exceed 140 percent of area median income (or 100 percent of area median income in the case of rental housing).

⁴ "Senior housing" is workforce housing that is intended and operated primarily for occupancy by at least one person 55 years of age or older per dwelling unit.

⁵ In addition, the building must be subject to property taxation, not have been the subject of a claim for a historic rehabilitation tax credit, and not have received financial assistance from tax increments generated by an active tax incremental district.

In the case of housing intended to be owner-occupied, the housing may not be sold during that 10-year period for a price that exceeds the price charged by the developer to the initial owner-occupier, except for an annual adjustment based on an increase in the sale price of all residential housing in the relevant county. WHEDA must publish on its website the acceptable sale price range for the property during the 10-year period.

In the case of rental housing, the owner must submit to WHEDA a certified rent roll showing relevant costs and rent paid during that 10-year period. WHEDA must keep confidential all information an owner submits in connection with a certified rent roll.

A loan may not be awarded unless the developer and the political subdivision⁶ having jurisdiction over the construction project demonstrate the following to the satisfaction of WHEDA:

- The owner has secured the necessary financial resources for the total cost of the construction project not to be covered by a loan under the program.
- The owner has secured all applicable permits or other approvals.
- The political subdivision has reduced the cost of rental housing in connection with the construction project by voluntarily revising zoning ordinances, subdivision regulations, or other land development regulations to increase development density, expedite approvals, reduce impact, water connection, or inspection fees, or reduce parking, building, or other development costs with respect to the project.⁷
- The political subdivision is in compliance with applicable requirements relating to comprehensive planning, the housing affordability report, and the new housing fee report.
- The political subdivision has updated the housing element of its comprehensive plan within the five years immediately preceding the date of the loan application.

A loan may not exceed the lesser of \$1 million per project or 20 percent of the total cost of the project, including any land purchase.

ADMINISTRATION OF LOANS AND THE LOAN FUND

WHEDA must establish policies and procedures to administer the loan fund and the loan program. The policies and procedures must, to the extent practicable, address credit underwriting guidelines, loan security, and loan repayment requirements. In addition, WHEDA and the developer must enter into an agreement establishing terms and conditions of the loan, among other matters.

The act requires that WHEDA set aside certain percentages of the amounts deposited in the fund in the 2023-25 fiscal biennium for a period of at least four years for projects for senior housing and for projects in cities, villages, and towns with a population of 10,000 or less.

WHEDA may charge interest at or below market rates on any loan made from the loan fund or may charge no interest.

⁶ “Political subdivision” means a city, village, town, or county.

⁷ The political subdivision must submit a cost reduction analysis that shows the cost reduction measures, including time saving measures, undertaken by the political subdivision on or after January 1, 2023, that have reduced the cost of residential housing in connection with the project. The analysis shall clearly show for each time-saving or cost-reduction measure the estimated time or dollar amount saved by the developer and the estimated percentage reduction in housing costs.

Finally, WHEDA must establish a marketing program to advertise the loan program and must submit annual reports to the Legislature.

Effective date: June 24, 2023

For a full history of the bill, visit the Legislature's [bill history page](#).

EL:jal