



2009 SENATE BILL 534

February 11, 2010 - Introduced by Senators TAYLOR and ROBSON, cosponsored by Representatives SINICKI, PASCH, FIELDS, TURNER and GRIGSBY. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5n), 71.10 (4) (cr), 71.28 (5n), 71.30
3 (3) (dr), 71.47 (5n), 71.49 (1) (dr) and 234.615 of the statutes; **relating to:**
4 employer-assisted housing.

Analysis by the Legislative Reference Bureau

This bill directs the Wisconsin Housing and Economic Development Authority (WHEDA) to establish and administer a program to award tax benefits to an employer that implements a qualifying employer-assisted housing program. The bill defines an “employer-assisted housing program” as a plan established in writing by an employer to pay qualified housing expenses of eligible employees. The bill defines “qualified housing expenses” to include the closing costs, downpayments, payments made to refinance a mortgage loan, or rental assistance paid on the eligible property of an eligible employee, and costs to provide technical assistance to a participating employer. The bill defines an “eligible employee” as an employee of a participating employer whose annual gross household income, adjusted for household size, does not exceed 120 percent of the area median gross household income, adjusted for household size. The bill defines “eligible property” as residential real property in this state that an eligible employee owns or rents as a full-time residence, but does not use as a vacation home or for trade or business purposes.

The bill requires WHEDA to establish criteria, policies, and requirements for a qualifying employer-assisted housing program. An employer wishing to establish

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a qualifying employer-assisted housing program may seek technical assistance from WHEDA directly, or may work with a sponsor. The bill defines a “sponsor” as a nonprofit corporation, exempt from federal income tax, that has as one of its stated purposes home ownership education. An employer who has established a qualifying employer-assisted housing program must obtain certification from WHEDA and pay any administrative fee charged by WHEDA before the employer is eligible to obtain tax benefits. The bill requires WHEDA to establish criteria, policies, and requirements to be met by a participating employer seeking certification under the program, and for a certified participating employer to obtain tax benefits under the program.

An employer may claim tax benefits in any year if, during that year, the employer incurs at least \$10,000 in qualified housing expenses. The amount that the employer may claim is equal to either 50 percent of the employer’s qualified housing expenses or 90 percent of the employer’s qualified housing expenses, if the expenses are paid in connection with an employee purchase of an eligible property that is a foreclosure. However, for each eligible employee assisted under the employer-assisted housing program and on whose behalf the employer incurs \$10,000 in qualified housing expenses, the employer may claim an amount that is no more than the lesser of \$10,000 or 6 percent of the purchase price of eligible property purchased by the eligible employee. The participating employer may seek renewal of certification if the employer pays any annual administrative fee charged by WHEDA and maintains an employer-assisted housing program that satisfies the requirements for such a program established by WHEDA.

Because this bill directly or substantially affects the development, construction, cost or availability of housing in this state, the Department of Commerce, as required by law, will prepare a report to be printed as an appendix to this bill.

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:

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:

3 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
5 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that

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1 amount to the partnership's, company's, or tax-option corporation's income under s.
2 71.21 (4) or 71.34 (1k) (g).

3 **SECTION 2.** 71.07 (5n) of the statutes is created to read:

4 71.07 **(5n)** EMPLOYER-ASSISTED HOUSING CREDIT. (a) *Definitions.* In this
5 subsection:

6 1. "Claimant" means a participating employer that is certified to receive tax
7 benefits under s. 234.615 (3).

8 2. "Participating employer" has the meaning given in s. 234.615 (1) (e).

9 3. "Qualified housing expenses" has the meaning given in s. 234.615 (1) (g).

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
11 234.615 (3), for taxable years beginning after December 31, 2010, a claimant may
12 claim as credit against the taxes imposed under s. 71.02, up to the amount of the
13 taxes, 50 percent of the amount of qualified housing expenses that the claimant paid
14 in the taxable year, except that, if the expenses are paid in connection with an
15 employee purchase of an eligible property that is a foreclosure, the claimant may
16 claim 90 percent of the qualified housing expenses that the claimant paid in the
17 taxable year.

18 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
19 corporations may not claim the credit under this subsection, but the eligibility for,
20 and the amount of, the credit are based on their payment of amounts under par. (b).
21 A partnership, limited liability company, or tax-option corporation shall compute
22 the amount of credit that each of its partners, members, or shareholders may claim
23 and shall provide that information to each of them. Partners, members of limited
24 liability companies, and shareholders of tax-option corporations may claim the
25 credit in proportion to their ownership interests.

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1 (d) *Administration*. Section 71.28 (4) (e) to (h), as it applies to the credit under
2 s. 71.28 (4), applies to the credit under this subsection.

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

4 71.10 (4) (cr) Employer-assisted housing credit under s. 71.07 (5n).

5 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
6 amended to read:

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
8 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
9 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and passed through to partners shall
10 be added to the partnership's income.

11 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
12 is amended to read:

13 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
14 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
15 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a
16 partnership, limited liability company, or tax-option corporation that has added that
17 amount to the partnership's, limited liability company's, or tax-option corporation's
18 income under s. 71.21 (4) or 71.34 (1k) (g).

19 **SECTION 6.** 71.28 (5n) of the statutes is created to read:

20 71.28 (5n) EMPLOYER-ASSISTED HOUSING CREDIT. (a) *Definitions*. In this
21 subsection:

22 1. "Claimant" means a participating employer that is certified to receive tax
23 benefits under s. 234.615 (3).

24 2. "Participating employer" has the meaning given in s. 234.615 (1) (e).

25 3. "Qualified housing expenses" has the meaning given in s. 234.615 (1) (g).

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
2 234.615 (3), for taxable years beginning after December 31, 2010, a claimant may
3 claim as credit against the taxes imposed under s. 71.23, up to the amount of the
4 taxes, 50 percent of the amount of qualified housing expenses that the claimant paid
5 in the taxable year, except that, if the expenses are paid in connection with an
6 employee purchase of an eligible property that is a foreclosure, the claimant may
7 claim 90 percent of the qualified housing expenses that the claimant paid in the
8 taxable year.

9 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
10 corporations may not claim the credit under this subsection, but the eligibility for,
11 and the amount of, the credit are based on their payment of amounts under par. (b).
12 A partnership, limited liability company, or tax-option corporation shall compute
13 the amount of credit that each of its partners, members, or shareholders may claim
14 and shall provide that information to each of them. Partners, members of limited
15 liability companies, and shareholders of tax-option corporations may claim the
16 credit in proportion to their ownership interests.

17 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
18 sub. (4), applies to the credit under this subsection.

19 **SECTION 7.** 71.30 (3) (dr) of the statutes is created to read:

20 71.30 (3) (dr) Employer-assisted housing credit under s. 71.28 (5n).

21 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
22 is amended to read:

23 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
24 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),

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1 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n),
2 and (8r) and passed through to shareholders.

3 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
4 28, is amended to read:

5 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
6 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),
7 (5g), (5h), (5i), (5j), (5k), (5n), and (8r) and not passed through by a partnership,
8 limited liability company, or tax-option corporation that has added that amount to
9 the partnership's, limited liability company's, or tax-option corporation's income
10 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
11 (1), (3), (3t), (4), (4m), and (5).

12 **SECTION 10.** 71.47 (5n) of the statutes is created to read:

13 71.47 (5n) EMPLOYER-ASSISTED HOUSING CREDIT. (a) *Definitions.* In this
14 subsection:

15 1. "Claimant" means a participating employer that is certified to receive tax
16 benefits under s. 234.615 (3).

17 2. "Participating employer" has the meaning given in s. 234.615 (1) (e).

18 3. "Qualified housing expenses" has the meaning given in s. 234.615 (1) (g).

19 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
20 234.615 (3), for taxable years beginning after December 31, 2010, a claimant may
21 claim as credit against the taxes imposed under s. 71.43, up to the amount of the
22 taxes, 50 percent of the amount of qualified housing expenses that the claimant paid
23 in the taxable year, except that, if the expenses are paid in connection with an
24 employee purchase of an eligible property that is a foreclosure, the claimant may

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1 claim 90 percent of the qualified housing expenses that the claimant paid in the
2 taxable year.

3 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
4 corporations may not claim the credit under this subsection, but the eligibility for,
5 and the amount of, the credit are based on their payment of amounts under par. (b).
6 A partnership, limited liability company, or tax-option corporation shall compute
7 the amount of credit that each of its partners, members, or shareholders may claim
8 and shall provide that information to each of them. Partners, members of limited
9 liability companies, and shareholders of tax-option corporations may claim the
10 credit in proportion to their ownership interests.

11 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
12 s. 71.28 (4), applies to the credit under this subsection.

13 **SECTION 11.** 71.49 (1) (dr) of the statutes is created to read:

14 71.49 (1) (dr) Employer-assisted housing credit under s. 71.47 (5n).

15 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
16 amended to read:

17 77.92 (4) "Net business income," with respect to a partnership, means taxable
18 income as calculated under section 703 of the Internal Revenue Code; plus the items
19 of income and gain under section 702 of the Internal Revenue Code, including taxable
20 state and municipal bond interest and excluding nontaxable interest income or
21 dividend income from federal government obligations; minus the items of loss and
22 deduction under section 702 of the Internal Revenue Code, except items that are not
23 deductible under s. 71.21; plus guaranteed payments to partners under section 707
24 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
25 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),

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1 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), and (8r); and plus or minus, as
2 appropriate, transitional adjustments, depreciation differences, and basis
3 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
4 loss, and deductions from farming. “Net business income,” with respect to a natural
5 person, estate, or trust, means profit from a trade or business for federal income tax
6 purposes and includes net income derived as an employee as defined in section 3121
7 (d) (3) of the Internal Revenue Code.

8 **SECTION 13.** 234.615 of the statutes is created to read:

9 **234.615 Tax benefits for employer-assisted housing. (1) DEFINITIONS.** In
10 this section:

11 (a) “Eligible employee” means any individual who satisfies all of the following:

12 1. The individual’s annual gross household income, adjusted for household size,
13 does not exceed 120 percent of the area median gross household income, adjusted for
14 household size.

15 2. The individual is employed by a participating employer.

16 (b) “Eligible property” means residential real property in this state that an
17 eligible employee owns or rents and maintains as a full-time residence, but does not
18 use as a vacation home or for trade or business purposes.

19 (c) “Employer-assisted housing program” means a plan established in writing
20 by an employer to pay qualified housing expenses of eligible employees.

21 (d) “Homeownership assistance” means payment of any of the following
22 towards the purchase of eligible property:

23 1. Closing costs, down payments, and prepaid expenses.

24 2. Payments made to refinance or to buy down the interest rate on a mortgage
25 loan.

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1 3. Contributions to 2nd mortgage pools or low-interest loan programs created
2 by a participating employer, administered by a sponsor, and made available to
3 eligible employees.

4 4. Contributions to individual development account programs, as provided
5 under 42 USC 604 (h), that are designed exclusively for the purchase of a home.

6 (e) "Mortgage loan" means a loan secured by a first lien real estate mortgage
7 on eligible property.

8 (f) "Participating employer" means an employer that has established an
9 employer-assisted housing program.

10 (g) "Qualified housing expenses" means any of the following if paid by a
11 participating employer:

12 1. Homeownership assistance or rental assistance paid by a participating
13 employer on behalf of an eligible employee.

14 2. Operating costs incurred directly or indirectly by a sponsor in connection
15 with a participating employer's employer-assisted housing program.

16 3. Costs incurred by a sponsor to provide technical assistance to an employer
17 establishing an employer-assisted housing program.

18 4. Costs incurred by a sponsor to provide homebuyer education and
19 homeownership counseling to eligible employees.

20 (h) "Rental assistance" means payment of deposits, including a security deposit
21 or a deposit that is to be applied as rent for one or more future periods, towards
22 eligible property and rent on eligible property.

23 (i) "Sponsor" means an organization that satisfies all of the following:

24 1. The organization is a nonprofit corporation, as defined in s. 181.0103 (17),
25 organized under the laws of this state.

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1 2. The organization is an organization described in section 501 (c) (3) of the
2 Internal Revenue Code that is exempt from federal income tax under section 501 (a)
3 of the Internal Revenue Code.

4 3. The organization has as one of its stated purposes homeownership
5 education.

6 (j) “Tax benefits” mean the credits under ss. 71.07 (5n), 71.28 (5n), and 71.47
7 (5n).

8 **(2) POWERS AND DUTIES OF THE AUTHORITY.** The authority shall establish and
9 administer a program to award tax benefits to a participating employer that
10 implements an employer–assisted housing program that satisfies the requirements
11 of this section. To implement the program the authority shall do all of the following:

12 (a) Establish criteria, policies, and requirements to be met by
13 employer–assisted housing programs.

14 (b) Establish criteria, policies, and requirements to be met by a participating
15 employer seeking certification under this section.

16 (c) Establish criteria, policies, and requirements to be met by a participating
17 employer seeking to claim tax benefits under this section for qualified housing
18 expenses incurred by the employer.

19 (d) Establish criteria, policies, and requirements for the transferability of tax
20 credits available under this section.

21 (e) 1. Provide a participating employer certified under this section and the
22 department of revenue with a copy of the certification.

23 2. Provide to the participating employer certified under subd. 1. and to the
24 department of revenue a notice of eligibility to receive tax benefits that reports the
25 amount of tax benefits for which the participating employer is eligible.

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1 (f) Provide technical assistance to participating employers seeking to apply for
2 certification under sub. (3) (b).

3 **(3) CERTIFICATION, LIMITS ON TAX BENEFITS, AND CLAIMING TAX BENEFITS.** (a) 1. A
4 sponsor may apply, on a form prepared by the authority, on behalf of one or more
5 participating employers for certification under this section.

6 2. The authority may certify a participating employer on whose behalf a
7 sponsor submits an application under subd. 1. if, after conducting an investigation,
8 the authority determines that the participating employer has established an
9 employer-assisted housing program that meets the requirements established as
10 provided in sub. (2) (a) and if the participating employer has paid any administrative
11 fee required under sub. (4).

12 3. The authority shall annually renew the certification of any participating
13 employer on whose behalf a sponsor submits a renewal application, together with
14 any administrative fee required under sub. (4), if the participating employer
15 maintains an employer-assisted housing program that meets the requirements
16 established as provided in sub. (2) (a).

17 (b) 1. The authority may certify a participating employer who seeks technical
18 assistance from the authority and who submits, together with any administrative fee
19 required under sub. (4), an application, on a form prepared by the authority, for
20 certification under this section if, after conducting an investigation, the authority
21 determines that the participating employer has established an employer-assisted
22 housing program that meets the requirements established as provided in sub. (2) (a).

23 2. The authority shall annually renew the certification of any participating
24 employer who submits, together with any administrative fee required under sub. (4),

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1 an application for renewal and who maintains an employer-assisted housing
2 program that meets the requirements established as provided in sub. (2) (a).

3 (c) Subject to par. (d), a participating employer certified under par. (a) or (b) may
4 claim tax benefits if, in each year for which the participating employer claims tax
5 benefits, the participating employer maintains certification under this subsection
6 and incurs at least \$10,000 in qualified housing expenses.

7 (d) On behalf of each eligible employee for whom the participating employer
8 pays at least \$10,000 in qualified housing expenses, the participating employer may
9 claim tax benefits under the program of no more than the following:

10 1. Except as provided in subd. 2., \$10,000.

11 2. If the eligible employee has purchased or is purchasing eligible property, 6
12 percent of the purchase price or \$10,000, whichever is less.

13 **(4) ADMINISTRATIVE FEES.** The authority may charge an administrative fee to
14 every participating employer who applies for certification or for renewal of
15 certification under this section. All administrative fees received under this
16 subsection shall be used to administer the program under this section.

17 **SECTION 14. Effective date.**

18 (1) This act takes effect on the day after publication of the 2011-13 biennial
19 budget bill.

20 **(END)**