



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5554/1
JK:emw

2021 SENATE BILL 859

January 13, 2022 - Introduced by Senators SMITH, AGARD, BEWLEY, CARPENTER, LARSON and L. TAYLOR, cosponsored by Representatives SHANKLAND, VANDERMEER, ANDRACA, ALLEN, BALDEH, CONLEY, CONSIDINE, EMERSON, HEBL, HONG, B. MEYERS, OHNSTAD, POPE, SHELTON, SINICKI, SNODGRASS, SPREITZER, STUBBS, SUBECK and VRUWINK. Referred to Committee on Financial Institutions and Revenue.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4) (a), 71.26 (2) (a) 4., 71.34 (1k) (g),
2 71.45 (2) (a) 10. and 76.67 (2); and **to create** 71.07 (5p), 71.10 (4) (ct), 71.28 (5p),
3 71.30 (3) (dr), 71.47 (5p), 71.49 (1) (dr) and 76.634 of the statutes; **relating to:**
4 a tax credit for investments in a community development financial institution.

Analysis by the Legislative Reference Bureau

Under this bill, a person who makes a qualified investment in a registered community development financial institution (CDFI) may receive a credit against state income and franchise taxes for taxable years beginning after December 31, 2021, and before January 1, 2024, and against license fees paid by insurers. The bill defines a CDFI as an entity that is organized under the laws of this state, uses qualified investments for projects that are based in this state, and has been certified by the Community Development Financial Institutions Fund established under federal law as meeting certain eligibility requirements. The bill defines a “qualified investment” as a loan or deposit that has a value of at least \$10,000, pays no interest to the person making the loan or deposit, and is made for a minimum of 60 months. The CDFI retains complete control of the loan or deposit for the duration of the investment period.

A person may claim 10 percent of the person’s qualified investment, if the investment is at least \$10,000 but not more than \$150,000, or 12 percent of the person’s qualified investment, if the investment is more than \$150,000 but not more than \$500,000. If the person withdraws the qualified investment from the CDFI before the end of the investment period and does not reinvest the qualified

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investment in another CDFI, the person must repay a portion of the credit amounts that the person received by adding the portion to the person's tax or fee liability in a subsequent year. However, the portion that the person must repay depends on when the person withdraws the investment during the investment period. The portion that the person must repay decreases the longer the person holds the investment during the investment period.

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 is amended to read:

2 71.05 **(6)** (a) 15. Except as provided under s. 71.07 (3p) (c) 5., the amount of the
3 credits computed under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t),
4 (3w), (3wm), (3y), (4k), (4n), (5e), (5i), (5j), (5k), (5p), (5r), (5rm), (6n), and (10) and
5 not passed through by a partnership, limited liability company, or tax-option
6 corporation that has added that amount to the partnership's, company's, or
7 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

9 71.07 **(5p)** STEVE HILGENBERG COMMUNITY DEVELOPMENT CREDIT. (a) *Definitions.*

10 In this subsection:

11 1. "Claimant" means a person who files a claim under this subsection.

12 2. "Community development financial institution" means an entity that
13 satisfies all of the following:

14 a. The entity is certified by the fund under 12 CFR 1805.201 as meeting the
15 eligibility requirements for a community development financial institution under 12
16 CFR 1805.200 and 1805.201 (b).

17 b. The entity is organized under the laws of this state.

18 c. The entity uses qualified investments for projects that are based in this state.

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1 3. “Fund” means the Community Development Financial Institutions Fund
2 established under 12 USC 4703 (a).

3 4. “Qualified investment” means a deposit or loan that satisfies all of the
4 following:

5 a. The deposit or loan pays no interest to the person who made the deposit or
6 loan.

7 b. The deposit or loan has a value of at least \$10,000.

8 c. The deposit or loan is made for a period of at least 60 months.

9 d. The community development financial institution that receives the deposit
10 or loan has complete control over the entire deposit or loan amount, including any
11 interest earned on the deposit or loan, for the duration of the investment period, but
12 the deposit or loan may be subject to any additional terms and conditions of the
13 investment agreement between the community development financial institution
14 and the investor that are not inconsistent with the requirements of this subsection.

15 (b) *Filing claims.* For taxable years beginning after December 31, 2021, and
16 before January 1, 2024, a claimant may claim as a credit against the tax imposed
17 under s. 71.02, up to the amount of the tax, for the taxable year in which the
18 investment is made, an amount equal to 10 percent of the claimant’s qualified
19 investment in a community development financial institution, if the investment is
20 at least \$10,000 but not more than \$150,000, or 12 percent of the claimant’s qualified
21 investment in a community development financial institution, if the investment is
22 more than \$150,000 but not more than \$500,000.

23 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
24 corporations may not claim the credit under this subsection, but the eligibility for,
25 and the amount of, the credit are based on their investment of amounts under par.

SENATE BILL 859**SECTION 2**

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

6 2. A person who makes an investment in a community development financial
7 institution in a taxable year, withdraws the investment in that taxable year, and
8 immediately reinvests the proceeds into another community development financial
9 institution may claim only one credit under this subsection for that taxable year,
10 based on the lesser of all such investments in that taxable year. Investments in a
11 community development financial institution made before the effective date of this
12 subdivision ... [LRB inserts date], may not be withdrawn prior to the end of their
13 contractual term and reinvested in a community development financial institution
14 in order to claim a credit under this subsection.

15 3. A claimant who withdraws a qualified investment from a community
16 development financial institution prior to the first day of the 61st month after the
17 qualified investment was made and who does not, within 60 days, reinvest the
18 proceeds of the qualified investment as a qualified investment in another community
19 development financial institution shall, in the taxable year in which the investment
20 is withdrawn, add to the claimant's liability for taxes imposed under s. 71.02 one of
21 the following percentages of the amount of the credits received under this subsection:

22 a. If the withdrawal occurs within one year after the date on which the claimant
23 made the qualified investment, 100 percent.

24 b. If the withdrawal occurs within 2 years after the date on which the claimant
25 made the qualified investment, 75 percent.

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1 c. If the withdrawal occurs within 3 years after the date on which the claimant
2 made the qualified investment, 50 percent.

3 d. If the withdrawal occurs within 4 years after the date on which the claimant
4 made the qualified investment, 25 percent.

5 e. If the withdrawal occurs within 5 years after the date on which the claimant
6 made the qualified investment, 10 percent.

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

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

10 71.10 (4) (ct) Steve Hilgenberg community development credit under s. 71.07
11 (5p).

12 **SECTION 4.** 71.21 (4) (a) of the statutes is amended to read:

13 71.21 (4) (a) The amount of the credits computed by a partnership under s.
14 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n),
15 (5e), (5g), (5i), (5j), (5k), (5p), (5r), (5rm), (6n), and (10) and passed through to
16 partners shall be added to the partnership's income.

17 **SECTION 5.** 71.26 (2) (a) 4. of the statutes is amended to read:

18 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm),
19 (1dx), (1dy), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (5e), (5g), (5i), (5j), (5k), (5p),
20 (5r), (5rm), (6n), (9s), and (10) and not passed through by a partnership, limited
21 liability company, or tax-option corporation that has added that amount to the
22 partnership's, limited liability company's, or tax-option corporation's income under
23 s. 71.21 (4) or 71.34 (1k) (g).

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

SENATE BILL 859**SECTION 6**

1 71.28 (5p) STEVE HILGENBERG COMMUNITY DEVELOPMENT CREDIT. (a) *Definitions.*

2 In this subsection:

3 1. "Claimant" means a person who files a claim under this subsection.

4 2. "Community development financial institution" means an entity that
5 satisfies all of the following:

6 a. The entity is certified by the fund under 12 CFR 1805.201 as meeting the
7 eligibility requirements for a community development financial institution under 12
8 CFR 1805.200 and 1805.201 (b).

9 b. The entity is organized under the laws of this state.

10 c. The entity uses qualified investments for projects that are based in this state.

11 3. "Fund" means the Community Development Financial Institutions Fund
12 established under 12 USC 4703 (a).

13 4. "Qualified investment" means a deposit or loan that satisfies all of the
14 following:

15 a. The deposit or loan pays no interest to the person who made the deposit or
16 loan.

17 b. The deposit or loan has a value of at least \$10,000.

18 c. The deposit or loan is made for a period of at least 60 months.

19 d. The community development financial institution that receives the deposit
20 or loan has complete control over the entire deposit or loan amount, including any
21 interest earned on the deposit or loan, for the duration of the investment period, but
22 the deposit or loan may be subject to any additional terms and conditions of the
23 investment agreement between the community development financial institution
24 and the investor that are not inconsistent with the requirements of this subsection.

SENATE BILL 859**SECTION 6**

1 (b) *Filing claims.* For taxable years beginning after December 31, 2021, and
2 before January 1, 2024, a claimant may claim as a credit against the tax imposed
3 under s. 71.23, up to the amount of the tax, for the taxable year in which the
4 investment is made, an amount equal to 10 percent of the claimant's qualified
5 investment in a community development financial institution, if the investment is
6 at least \$10,000 but not more than \$150,000, or 12 percent of the claimant's qualified
7 investment in a community development financial institution, if the investment is
8 more than \$150,000 but not more than \$500,000.

9 (c) *Limitations.* 1. 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 investment of amounts under par.
12 (b). A partnership, limited liability company, or tax-option corporation shall
13 compute the amount of credit that each of its partners, members, or shareholders
14 may claim and shall provide that information to each of them. Partners, members
15 of limited liability companies, and shareholders of tax-option corporations may
16 claim the credit in proportion to their ownership interests.

17 2. A person who makes an investment in a community development financial
18 institution in a taxable year, withdraws the investment in that taxable year, and
19 immediately reinvests the proceeds into another community development financial
20 institution may claim only one credit under this subsection for that taxable year,
21 based on the lesser of all such investments in that taxable year. Investments in a
22 community development financial institution made before the effective date of this
23 subdivision ... [LRB inserts date], may not be withdrawn prior to the end of their
24 contractual term and reinvested in a community development financial institution
25 in order to claim a credit under this subsection.

SENATE BILL 859**SECTION 6**

1 3. A claimant who withdraws a qualified investment from a community
2 development financial institution prior to the first day of the 61st month after the
3 qualified investment was made and who does not, within 60 days, reinvest the
4 proceeds of the qualified investment as a qualified investment in another community
5 development financial institution shall, in the taxable year in which the investment
6 is withdrawn, add to the claimant's liability for taxes imposed under s. 71.23 one of
7 the following percentages of the amount of the credits received under this subsection:

8 a. If the withdrawal occurs within one year after the date on which the claimant
9 made the qualified investment, 100 percent.

10 b. If the withdrawal occurs within 2 years after the date on which the claimant
11 made the qualified investment, 75 percent.

12 c. If the withdrawal occurs within 3 years after the date on which the claimant
13 made the qualified investment, 50 percent.

14 d. If the withdrawal occurs within 4 years after the date on which the claimant
15 made the qualified investment, 25 percent.

16 e. If the withdrawal occurs within 5 years after the date on which the claimant
17 made the qualified investment, 10 percent.

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

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

21 71.30 (3) (dr) Steve Hilgenberg community development credit under s. 71.28
22 (5p).

23 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

24 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
25 corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3q), (3t), (3w),

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1 (3wm), (3y), (4), (5), (5e), (5g), (5i), (5j), (5k), (5p), (5r), (5rm), (6n), and (10) and passed
2 through to shareholders.

3 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

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

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

12 71.47 (5p) STEVE HILGENBERG COMMUNITY DEVELOPMENT CREDIT. (a) *Definitions.*

13 In this subsection:

- 14 1. "Claimant" means a person who files a claim under this subsection.
- 15 2. "Community development financial institution" means an entity that
16 satisfies all of the following:
 - 17 a. The entity is certified by the fund under 12 CFR 1805.201 as meeting the
18 eligibility requirements for a community development financial institution under 12
19 CFR 1805.200 and 1805.201 (b).
 - 20 b. The entity is organized under the laws of this state.
 - 21 c. The entity uses qualified investments for projects that are based in this state.
- 22 3. "Fund" means the Community Development Financial Institutions Fund
23 established under 12 USC 4703 (a).
- 24 4. "Qualified investment" means a deposit or loan that satisfies all of the
25 following:

SENATE BILL 859**SECTION 10**

1 a. The deposit or loan pays no interest to the person who made the deposit or
2 loan.

3 b. The deposit or loan has a value of at least \$10,000.

4 c. The deposit or loan is made for a period of at least 60 months.

5 d. The community development financial institution that receives the deposit
6 or loan has complete control over the entire deposit or loan amount, including any
7 interest earned on the deposit or loan, for the duration of the investment period, but
8 the deposit or loan may be subject to any additional terms and conditions of the
9 investment agreement between the community development financial institution
10 and the investor that are not inconsistent with the requirements of this subsection.

11 (b) *Filing claims.* For taxable years beginning after December 31, 2021, and
12 before January 1, 2024, a claimant may claim as a credit against the tax imposed
13 under s. 71.43, up to the amount of the tax, for the taxable year in which the
14 investment is made, an amount equal to 10 percent of the claimant's qualified
15 investment in a community development financial institution, if the investment is
16 at least \$10,000 but not more than \$150,000, or 12 percent of the claimant's qualified
17 investment in a community development financial institution, if the investment is
18 more than \$150,000 but not more than \$500,000.

19 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
20 corporations may not claim the credit under this subsection, but the eligibility for,
21 and the amount of, the credit are based on their investment of amounts under par.

22 (b). A partnership, limited liability company, or tax-option corporation shall
23 compute the amount of credit that each of its partners, members, or shareholders
24 may claim and shall provide that information to each of them. Partners, members

SENATE BILL 859**SECTION 10**

1 of limited liability companies, and shareholders of tax-option corporations may
2 claim the credit in proportion to their ownership interests.

3 2. A person who makes an investment in a community development financial
4 institution in a taxable year, withdraws the investment in that taxable year, and
5 immediately reinvests the proceeds into another community development financial
6 institution may claim only one credit under this subsection for that taxable year,
7 based on the lesser of all such investments in that taxable year. Investments in a
8 community development financial institution made before the effective date of this
9 subdivision [LRB inserts date], may not be withdrawn prior to the end of their
10 contractual term and reinvested in a community development financial institution
11 in order to claim a credit under this subsection.

12 3. A claimant who withdraws a qualified investment from a community
13 development financial institution prior to the first day of the 61st month after the
14 qualified investment was made and who does not, within 60 days, reinvest the
15 proceeds of the qualified investment as a qualified investment in another community
16 development financial institution shall, in the taxable year in which the investment
17 is withdrawn, add to the claimant's liability for taxes imposed under s. 71.43 one of
18 the following percentages of the amount of the credits received under this subsection:

19 a. If the withdrawal occurs within one year after the date on which the claimant
20 made the qualified investment, 100 percent.

21 b. If the withdrawal occurs within 2 years after the date on which the claimant
22 made the qualified investment, 75 percent.

23 c. If the withdrawal occurs within 3 years after the date on which the claimant
24 made the qualified investment, 50 percent.

SENATE BILL 859**SECTION 10**

1 d. If the withdrawal occurs within 4 years after the date on which the claimant
2 made the qualified investment, 25 percent.

3 e. If the withdrawal occurs within 5 years after the date on which the claimant
4 made the qualified investment, 10 percent.

5 4. No person may claim a credit under this subsection and s. 76.634 for the same
6 qualified investment.

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

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

10 71.49 (1) (dr) Steve Hilgenberg community development credit under s. 71.47
11 (5p).

12 **SECTION 12.** 76.634 of the statutes is created to read:

13 **76.634 Steve Hilgenberg community development credit. (1)**

14 **DEFINITIONS.** In this section:

15 (a) “Community development financial institution” means an entity that
16 satisfies all of the following:

17 1. The entity is certified by the fund under 12 CFR 1805.201 as meeting the
18 eligibility requirements for a community development financial institution under 12
19 CFR 1805.200 and 1805.201 (b).

20 2. The entity is organized under the laws of this state.

21 3. The entity uses qualified investments for projects that are based in this state.

22 (b) “Fund” means the Community Development Financial Institutions Fund
23 established under 12 USC 4703 (a).

24 (c) “Qualified investment” means a deposit or loan that satisfies all of the
25 following:

SENATE BILL 859**SECTION 12**

1 1. The deposit or loan pays no interest to the person who made the deposit or
2 loan.

3 2. The deposit or loan has a value of at least \$10,000.

4 3. The deposit or loan is made for a period of at least 60 months.

5 4. The community development financial institution that receives the deposit
6 or loan has complete control over the entire deposit or loan amount, including any
7 interest earned on the deposit or loan, for the duration of the investment period, but
8 the deposit or loan may be subject to any additional terms and conditions of the
9 investment agreement between the community development financial institution
10 and the investor that are not inconsistent with the requirements of this section.

11 **(1m) FILING CLAIMS.** For taxable years beginning after December 31, 2021, and
12 before January 1, 2024, an insurer may claim as a credit against the fees due under
13 s. 76.60, 76.63, 76.65, 76.66, or 76.67, for the taxable year in which the investment
14 is made, an amount equal to 10 percent of the insurer's qualified investment in a
15 community development financial institution, if the investment is at least \$10,000
16 but not more than \$150,000, or 12 percent of the insurer's qualified investment in
17 a community development financial institution, if the investment is more than
18 \$150,000 but not more than \$500,000.

19 **(2) CARRY-FORWARD.** If the credit under sub. (1m) is not entirely offset against
20 the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused
21 balance may be carried forward and credited against those fees for the following 15
22 years to the extent that it is not offset by those fees otherwise due in all the years
23 between the year in which the investment was made and the year in which the
24 carry-forward credit is claimed.

SENATE BILL 859**SECTION 12**

1 **(3) LIMITATIONS.** (a) An insurer who makes an investment in a community
2 development financial institution in a taxable year, withdraws the investment in
3 that taxable year, and immediately reinvests the proceeds into another community
4 development financial institution may claim only one credit under this section for
5 that taxable year, based on the lesser of all such investments in that taxable year.
6 Investments in a community development financial institution made before the
7 effective date of this paragraph [LRB inserts date], may not be withdrawn prior
8 to the end of their contractual term and reinvested in a community development
9 financial institution in order to claim a credit under this section.

10 (b) No person may claim a credit under this section and s. 71.47 (5p) for the
11 same qualified investment.

12 **(4) REPAYMENT.** An insurer who claims a credit under this section and who
13 withdraws a qualified investment from a community development financial
14 institution prior to the first day of the 61st month after the qualified investment was
15 made and who does not, within 60 days, reinvest the proceeds of the qualified
16 investment as a qualified investment in another community development financial
17 institution shall, in the taxable year in which the investment is withdrawn, add to
18 the insurer's liability for fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67
19 one of the following percentages of the amount of the credits received under this
20 section:

21 (a) If the withdrawal occurs within one year after the date on which the insurer
22 made the qualified investment, 100 percent.

23 (b) If the withdrawal occurs within 2 years after the date on which the insurer
24 made the qualified investment, 75 percent.

SENATE BILL 859**SECTION 12**

1 (c) If the withdrawal occurs within 3 years after the date on which the insurer
2 made the qualified investment, 50 percent.

3 (d) If the withdrawal occurs within 4 years after the date on which the insurer
4 made the qualified investment, 25 percent.

5 (e) If the withdrawal occurs within 5 years after the date on which the insurer
6 made the qualified investment, 10 percent.

7 **SECTION 13.** 76.67 (2) of the statutes is amended to read:

8 76.67 (2) If any domestic insurer is licensed to transact insurance business in
9 another state, this state may not require similar insurers domiciled in that other
10 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
11 a domestic insurer is required to pay to that other state for the same year less the
12 credits under ss. 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655, except that the
13 amount imposed shall not be less than the total of the amounts due under ss. 76.65
14 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375 percent of its gross
15 premiums, as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or
16 under ss. 76.634, 76.635, 76.636, 76.637, 76.638, 76.639, and 76.655 against that
17 total, and except that the amount imposed shall not be less than the amount due
18 under s. 601.93.

19

(END)