



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5530/1
JK:kjf

2019 SENATE BILL 825

February 20, 2020 - Introduced by Senator SMITH, cosponsored by Representatives SHANKLAND, VANDERMEER, ALLEN, FIELDS, KOLSTE, L. MYERS, OHNSTAD, SINICKI, SPREITZER, SUBECK, VRUWINK and ZAMARRIPA. Referred to Committee on Agriculture, Revenue and Financial Institutions.

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) (cs), 71.28 (5p),
3 71.30 (3) (dr), 71.47 (5p), 71.49 (1) (dr) and 76.634 of the statutes; **relating to:**
4 an income and franchise tax credit for investments in a community
5 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, 2018, and before January 1, 2021, and against license fees paid by insurers. The bill defines a CDFI as an entity that is organized under the laws of this state and has been certified by the Community Development Financial Institutions Fund established under federal law (fund) 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

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before the end of the investment period and does not reinvest the qualified 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), (3p), (3q), (3r),
4 (3rm), (3rn), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), (5f), (5h), (5i), (5j), (5k), (5p),
5 (5r), (5rm), (6n), (8r), and (10) and not passed through by a partnership, limited
6 liability company, or tax-option corporation that has added that amount to the
7 partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or
8 71.34 (1k) (g).

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

10 71.07 **(5p)** STEVE HILGENBERG COMMUNITY DEVELOPMENT CREDIT. (a) *Definitions.*

11 In this subsection:

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

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

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

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

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

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

5 4. a. Subject to subd. 4. b., "qualified investment" means a deposit or loan that
6 pays no interest to the person who made the deposit or loan if the deposit or loan has
7 a value of at least \$10,000 and is made for a period of at least 60 months.

8 b. A community development financial institution that receives an investment
9 described under subd. 4. a. shall have complete control over the entire investment
10 amount, including any interest earned on the investment, for the duration of the
11 investment period, but the investment may be subject to any additional terms and
12 conditions of the investment agreement between the community development
13 financial institution and the investor that are not inconsistent with the
14 requirements of this section.

15 (b) *Filing claims.* For taxable years beginning after December 31, 2018, and
16 before January 1, 2021, 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 payment of amounts under par. (b).

SENATE BILL 825**SECTION 2**

1 A partnership, limited liability company, or tax-option corporation shall compute
2 the amount of credit that each of its partners, members, or shareholders may claim
3 and shall provide that information to each of them. Partners, members of limited
4 liability companies, and shareholders of tax-option corporations may claim the
5 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 immediately reinvest the proceeds
18 of the qualified investment as a qualified investment in another community
19 development financial institution shall add to the claimant's liability for taxes
20 imposed under s. 71.02 one of the following percentages of the amount of the credits
21 received under this subsection:

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

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

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

3 d. If the withdrawal occurs during the 4th year after the date on which the
4 claimant made the qualified investment, 25 percent.

5 e. If the withdrawal occurs during the 5th year after the date on which the
6 claimant 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) (cs) of the statutes is created to read:

10 71.10 (4) (cs) 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), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w),
15 (3wm), (3y), (4k), (4n), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), (6n), (8r),
16 and (10) and passed through to 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), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (3wm), (3y), (5e),
20 (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), (6n), (8r), (9s), and (10) and not passed
21 through by a partnership, limited liability company, or tax-option corporation that
22 has added that amount to the partnership's, limited liability company's, or
23 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

SENATE BILL 825**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. a. Subject to subd. 4. b., "qualified investment" means a deposit or loan that
14 pays no interest to the person who made the deposit or loan if the deposit or loan has
15 a value of at least \$10,000 and is made for a period of at least 60 months.

16 b. A community development financial institution that receives an investment
17 described under subd. 4. a. shall have complete control over the entire investment
18 amount, including any interest earned on the investment, for the duration of the
19 investment period, but the investment may be subject to any additional terms and
20 conditions of the investment agreement between the community development
21 financial institution and the investor that are not inconsistent with the
22 requirements of this section.

23 (b) *Filing claims.* For taxable years beginning after December 31, 2018, and
24 before January 1, 2021, a claimant may claim as a credit against the tax imposed
25 under s. 71.23, up to the amount of the tax, for the taxable year in which the

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1 investment is made, an amount equal to 10 percent of the claimant's qualified
2 investment in a community development financial institution, if the investment is
3 at least \$10,000, but not more than \$150,000, or 12 percent of the claimant's qualified
4 investment in a community development financial institution, if the investment is
5 more than \$150,000, but not more than \$500,000.

6 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
7 corporations may not claim the credit under this subsection, but the eligibility for,
8 and the amount of, the credit are based on their payment of amounts under par. (b).
9 A partnership, limited liability company, or tax-option corporation shall compute
10 the amount of credit that each of its partners, members, or shareholders may claim
11 and shall provide that information to each of them. Partners, members of limited
12 liability companies, and shareholders of tax-option corporations may claim the
13 credit in proportion to their ownership interests.

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

23 3. A claimant who withdraws a qualified investment from a community
24 development financial institution prior to the first day of the 61st month after the
25 qualified investment was made and who does not immediately reinvest the proceeds

SENATE BILL 825**SECTION 6**

1 of the qualified investment as a qualified investment in another community
2 development financial institution shall add to the claimant's liability for taxes
3 imposed under s. 71.23 one of the following percentages of the amount of the credits
4 received under this subsection:

5 a. If the withdrawal occurs during the first year after the date on which the
6 claimant made the qualified investment, 100 percent.

7 b. If the withdrawal occurs during the 2nd year after the date on which the
8 claimant made the qualified investment, 75 percent.

9 c. If the withdrawal occurs during the 3rd year after the date on which the
10 claimant made the qualified investment, 50 percent.

11 d. If the withdrawal occurs during the 4th year after the date on which the
12 claimant made the qualified investment, 25 percent.

13 e. If the withdrawal occurs during the 5th year after the date on which the
14 claimant made the qualified investment, 10 percent.

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

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

18 71.30 (3) (dr) Steve Hilgenberg community development credit under s. 71.28
19 (5p).

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

21 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
22 corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3p), (3q), (3r),
23 (3rm), (3rn), (3t), (3w), (3wm), (3y), (4), (5), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p),
24 (5r), (5rm), (6n), (8r), and (10) and passed through to shareholders.

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

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

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

9 71.47 (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.

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

21 4. a. Subject to subd. 4. b., "qualified investment" means a deposit or loan that
22 pays no interest to the person who made the deposit or loan if the deposit or loan has
23 a value of at least \$10,000 and is made for a period of at least 60 months.

24 b. A community development financial institution that receives an investment
25 described under subd. 4. a. shall have complete control over the entire investment

SENATE BILL 825**SECTION 10**

1 amount, including any interest earned on the investment, for the duration of the
2 investment period, but the investment may be subject to any additional terms and
3 conditions of the investment agreement between the community development
4 financial institution and the investor that are not inconsistent with the
5 requirements of this section.

6 (b) *Filing claims.* For taxable years beginning after December 31, 2018, and
7 before January 1, 2021, a claimant may claim as a credit against the tax imposed
8 under s. 71.43, up to the amount of the tax, for the taxable year in which the
9 investment is made, an amount equal to 10 percent of the claimant's qualified
10 investment in a community development financial institution, if the investment is
11 at least \$10,000, but not more than \$150,000, or 12 percent of the claimant's qualified
12 investment in a community development financial institution, if the investment is
13 more than \$150,000, but not more than \$500,000.

14 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
15 corporations may not claim the credit under this subsection, but the eligibility for,
16 and the amount of, the credit are based on their payment of amounts under par. (b).
17 A partnership, limited liability company, or tax-option corporation shall compute
18 the amount of credit that each of its partners, members, or shareholders may claim
19 and shall provide that information to each of them. Partners, members of limited
20 liability companies, and shareholders of tax-option corporations may claim the
21 credit in proportion to their ownership interests.

22 2. A person who makes an investment in a community development financial
23 institution in a taxable year, withdraws the investment in that taxable year, and
24 immediately reinvests the proceeds into another community development financial
25 institution may claim only one credit under this subsection for that taxable year,

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1 based on the lesser of all such investments in that taxable year. Investments in a
2 community development financial institution made before the effective date of this
3 subdivision ... [LRB inserts date], may not be withdrawn prior to the end of their
4 contractual term and reinvested in a community development financial institution
5 in order to claim a credit under this subsection.

6 3. A claimant who withdraws a qualified investment from a community
7 development financial institution prior to the first day of the 61st month after the
8 qualified investment was made and who does not immediately reinvest the proceeds
9 of the qualified investment as a qualified investment in another community
10 development financial institution shall add to the claimant's liability for taxes
11 imposed under s. 71.43 one of the following percentages of the amount of the credits
12 received under this subsection:

13 a. If the withdrawal occurs during the first year after the date on which the
14 claimant made the qualified investment, 100 percent.

15 b. If the withdrawal occurs during the 2nd year after the date on which the
16 claimant made the qualified investment, 75 percent.

17 c. If the withdrawal occurs during the 3rd year after the date on which the
18 claimant made the qualified investment, 50 percent.

19 d. If the withdrawal occurs during the 4th year after the date on which the
20 claimant made the qualified investment, 25 percent.

21 e. If the withdrawal occurs during the 5th year after the date on which the
22 claimant made the qualified investment, 10 percent.

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

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

SENATE BILL 825**SECTION 11**

1 71.49 (1) (dr) Steve Hilgenberg community development credit under s. 71.47
2 (5p).

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

4 **76.634 Steve Hilgenberg community development credit. (1)**

5 DEFINITIONS. In this section:

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

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

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

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

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

15 (c) 1. Subject to subd. 2., “qualified investment” means a deposit or loan that
16 pays no interest to the person who made the deposit or loan if the deposit or loan has
17 a value of at least \$10,000 and is made for a period of at least 60 months.

18 2. A community development financial institution that receives an investment
19 described under subd. 1. shall have complete control over the entire investment
20 amount, including any interest earned on the investment, for the duration of the
21 investment period, but the investment may be subject to any additional terms and
22 conditions of the investment agreement between the community development
23 financial institution and the investor that are not inconsistent with the
24 requirements of this section.

SENATE BILL 825**SECTION 12**

1 **(1m) FILING CLAIMS.** For taxable years beginning after December 31, 2018, and
2 before January 1, 2021, an insurer may claim as a credit against the fees due under
3 s. 76.60, 76.63, 76.65, 76.66, or 76.67 for the taxable year in which the investment
4 is made, an amount equal to 10 percent of the insurer's qualified investment in a
5 community development financial institution, if the investment is at least \$10,000,
6 but not more than \$150,000, or 12 percent of the insurer's qualified investment in
7 a community development financial institution, if the investment is more than
8 \$150,000, but not more than \$500,000.

9 **(2) CARRY-FORWARD.** If the credit under sub. (1) is not entirely offset against the
10 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
11 may be carried forward and credited against those fees for the following 15 years to
12 the extent that it is not offset by those fees otherwise due in all the years between
13 the year in which the expense was made and the year in which the carry-forward
14 credit is claimed.

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

24 **(4) REPAYMENT.** An insurer who claims a credit under this section and who
25 withdraws a qualified investment from a community development financial

SENATE BILL 825**SECTION 12**

1 institution prior to the first day of the 61st month after the qualified investment was
2 made and who does not immediately reinvest the proceeds of the qualified
3 investment as a qualified investment in another community development financial
4 institution shall add to the insurer's liability for fees imposed under s. 76.60, 76.63,
5 76.65, 76.66, or 76.67 one of the following percentages of the amount of the credits
6 received under this section:

7 (a) If the withdrawal occurs during the first year after the date on which the
8 insurer made the qualified investment, 100 percent.

9 (b) If the withdrawal occurs during the 2nd year after the date on which the
10 insurer made the qualified investment, 75 percent.

11 (c) If the withdrawal occurs during the 3rd year after the date on which the
12 insurer made the qualified investment, 50 percent.

13 (d) If the withdrawal occurs during the 4th year after the date on which the
14 insurer made the qualified investment, 25 percent.

15 (e) If the withdrawal occurs during the 5th year after the date on which the
16 insurer made the qualified investment, 10 percent.

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

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

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1 under ss. 76.634, 76.635, 76.636, 76.637, 76.638, 76.639, and 76.655 against that
2 total, and except that the amount imposed shall not be less than the amount due
3 under s. 601.93.

4 (END)