



2021 SENATE BILL 172

March 3, 2021 - Introduced by Senators BERNIER, BALLWEG and FEYEN, cosponsored by Representatives SUMMERFIELD, ARMSTRONG, EDMING, KUGLITSCH, LOUDENBECK, MOSES, MURPHY, ORTIZ-VELEZ, PETRYK, SKOWRONSKI, SPIROS, TITTL, TUSLER and VANDERMEER. Referred to Committee on Financial Institutions and Revenue.

1 **AN ACT to amend** 76.67 (2); and **to create** 71.07 (8f), 71.10 (4) (fd), 71.28 (8f),
2 71.30 (3) (cu), 71.47 (8f), 71.49 (1) (cu), 76.6395 and 234.46 of the statutes;
3 **relating to:** state workforce housing income and franchise tax credit and
4 requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates a state workforce housing tax credit program that is administered by the Wisconsin Housing and Economic Development Authority.

Under the bill, WHEDA may certify a person to claim a nonrefundable credit to offset income and franchise taxes if all of the following conditions are satisfied:

1. The person has an ownership interest in a qualified housing development. Under the bill, a "qualified housing development" is a residential rental property development located in Wisconsin if at least 25 percent of the rental units are occupied by individuals whose income is at least 61 percent but not more than 100 percent of area median income and the rents for such units do not exceed 30 percent of area median income.

2. The tax credit is necessary for the financial feasibility of the development.

3. The qualified housing development is the subject of a recorded restrictive covenant requiring that the development be maintained and operated as a qualified housing development for at least 10 years.

4. The tax credit certification is issued in accordance with a qualified allocation plan established by WHEDA.

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The bill requires that WHEDA give preference to qualified housing developments located in a city, village, or town of fewer than 150,000 residents. The bill caps at \$42,000,000 the amount of credits WHEDA may issue each year, including all amounts each person is eligible to claim for each year of the credit. However, the bill raises that cap for each year by an amount equal to all unallocated credits from prior years and all previously allocated credits that have been revoked, canceled, or otherwise recovered by WHEDA.

The bill also requires that WHEDA submit an annual report to the legislature concerning the program's progress.

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.** 71.07 (8f) of the statutes is created to read:

2 71.07 (8f) STATE WORKFORCE HOUSING CREDIT. (a) *Definitions.* In this subsection:

3 1. "Allocation certificate" means a statement issued by the authority certifying
4 that a qualified housing development is eligible for a credit under this subsection and
5 specifying the amount of the credit that the owners of the development may claim
6 for each taxable year of the credit period.

7 2. "Area median gross income" has the meaning as used for purposes of 26 USC
8 42.

9 3. "Authority" means the Wisconsin Housing and Economic Development
10 Authority.

11 4. "Claimant" means a person who has an ownership interest in a qualified
12 housing development and who files a claim under this subsection.

13 5. "Compliance period" means the 10-year period beginning with the first
14 taxable year of the credit period.

15 6. "Credit period" means the 6-year period beginning with the taxable year in
16 which a qualified housing development is placed in service. For purposes of this

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1 subdivision, if a qualified housing development consists of more than one building,
2 the qualified housing development is placed in service in the taxable year in which
3 the last building is placed in service.

4 7. "Qualified basis" means the amount equal to the applicable fraction of the
5 adjusted basis of the qualified housing development as of the close of the first taxable
6 year of the credit period. The applicable fraction is the smaller of a fraction whose
7 numerator is the number of qualified units in the qualified housing development and
8 denominator is the total number of residential rental units in the qualified housing
9 development or a fraction whose numerator is the total floor space of the qualified
10 units in the qualified housing development and denominator is the total floor space
11 of all the residential rental units in the qualified housing development. In
12 calculating the applicable fraction, the number of qualified units and residential
13 rental units and the amount of floor space shall be determined as of the close of the
14 taxable year.

15 8. "Qualified housing development" means a residential rental property
16 development that is located in this state if at least 25 percent of the development's
17 residential rental units are rent-restricted units and occupied by individuals whose
18 tenant income is at least 61 percent but not more than 100 percent of area median
19 gross income.

20 9. "Qualified unit" means a rent-restricted unit that is occupied by individuals
21 whose tenant income is at least 61 percent but not more than 100 percent of area
22 median gross income.

23 10. "Rent-restricted unit" means a residential rental unit if the gross rent with
24 respect to the unit does not exceed 30 percent of area median gross income,

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1 determined as if the unit is occupied by one individual in a unit without a separate
2 bedroom and 1.5 individuals for each separate bedroom in any other unit.

3 11. "Tenant income" means the income determined under 26 USC 142 (d) (2)
4 (B) of individuals occupying a residential rental unit.

5 (b) *Filing claims.* Subject to the limitations provided in this subsection and in
6 s. 234.46, for taxable years beginning after December 31, 2020, a claimant may claim
7 as a credit against the taxes imposed under s. 71.02, up to the amount of the tax, the
8 amount allocated to the claimant by the authority under s. 234.46 for each taxable
9 year within the credit period.

10 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
11 claimant includes with the claimant's return a copy of the allocation certificate
12 issued for the qualified housing development.

13 2. A partnership, limited liability company, or tax-option corporation may not
14 claim the credit under this subsection. The partners of a partnership, members of
15 a limited liability company, or shareholders in a tax-option corporation may claim
16 the credit under this subsection based on eligible costs incurred by the partnership,
17 limited liability company, or tax-option corporation. The partnership, limited
18 liability company, or tax-option corporation shall calculate the amount of the credit
19 that may be claimed by each partner, member, or shareholder and shall provide that
20 information to each of them. Credits computed by a partnership or limited liability
21 company may be claimed in proportion to the ownership interests of the partners or
22 members or allocated to partners or members as provided in a written agreement
23 among the partners or members that is entered into no later than the last day of the
24 taxable year of the partnership or limited liability company for which the credit is
25 claimed. Any partner or member who claims the credit as allocated by a written

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1 agreement shall provide a copy of the agreement with the tax return on which the
2 credit is claimed. For shareholders of a tax-option corporation, the credit may be
3 allocated in proportion to the ownership interest of each shareholder. A person
4 claiming the credit as provided under this subdivision is solely responsible for any
5 tax liability arising from a dispute with the department related to claiming the
6 credit.

7 (d) *Recapture*. 1. As of the last day of any taxable year during the compliance
8 period, if the qualified basis of a qualified housing development with respect to a
9 claimant is less than the qualified basis as of the last day of the previous taxable year,
10 the amount of the claimant's tax liability under this subchapter shall be increased
11 by an amount equal to the excess of the aggregate credit claimed under this
12 subsection in prior taxable years over the aggregate credit that would be claimed in
13 those years if the full credit amount allocated to the claimant for the credit period
14 was claimed ratably over 10 years, plus interest at the overpayment rate established
15 under 26 USC 6621.

16 2. Subdivision 1. does not apply if the reduction in qualified basis for the
17 taxable year is by reason of a casualty loss if the loss is restored by reconstruction
18 or replacement within a reasonable period; a minimal change in floor space; or a
19 disposition of an interest in the qualified housing development if it is reasonably
20 expected that the development will continue to be operated as a qualified housing
21 development for the remainder of the compliance period.

22 3. In the event that the recapture of a credit is required in a taxable year, the
23 taxpayer shall include the recaptured amount on the return submitted for the
24 taxable year in which the recapture event is identified.

25 4. The department shall promulgate rules to implement this paragraph.

SENATE BILL 172**SECTION 1**

1 (e) *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 2.** 71.10 (4) (fd) of the statutes is created to read:

4 71.10 (4) (fd) State workforce housing credit under s. 71.07 (8f).

5 **SECTION 3.** 71.28 (8f) of the statutes is created to read:

6 71.28 (8f) STATE WORKFORCE HOUSING CREDIT. (a) *Definitions*. In this subsection:

7 1. "Allocation certificate" means a statement issued by the authority certifying
8 that a qualified housing development is eligible for a credit under this subsection and
9 specifying the amount of the credit that the owners of the qualified housing
10 development may claim for each taxable year of the credit period.

11 2. "Area median gross income" has the meaning as used for purposes of 26 USC
12 42.

13 3. "Authority" means the Wisconsin Housing and Economic Development
14 Authority.

15 4. "Claimant" means a person who has an ownership interest in a qualified
16 housing development and who files a claim under this subsection.

17 5. "Compliance period" means the 10-year period beginning with the first
18 taxable year of the credit period.

19 6. "Credit period" means the 6-year period beginning with the taxable year in
20 which a qualified housing development is placed in service. For purposes of this
21 subdivision, if a qualified housing development consists of more than one building,
22 the qualified housing development is placed in service in the taxable year in which
23 the last building is placed in service.

24 7. "Qualified basis" means the amount equal to the applicable fraction of the
25 adjusted basis of the qualified housing development as of the close of the first taxable

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1 year of the credit period. The applicable fraction is the smaller of a fraction whose
2 numerator is the number of qualified units in the qualified housing development and
3 denominator is the total number of residential rental units in the qualified housing
4 development or a fraction whose numerator is the total floor space of the qualified
5 units in the qualified housing development and denominator is the total floor space
6 of all the residential rental units in the qualified housing development. In
7 calculating the applicable fraction, the number of qualified units and residential
8 rental units and the amount of floor space shall be determined as of the close of the
9 taxable year.

10 8. “Qualified housing development” means a residential rental property
11 development located in this state if at least 25 percent of the development’s
12 residential rental units are rent-restricted units and occupied by individuals whose
13 tenant income is at least 61 percent but not more than 100 percent of area median
14 gross income.

15 9. “Qualified unit” means a rent-restricted unit that is occupied by individuals
16 whose tenant income is at least 61 percent but not more than 100 percent of area
17 median gross income.

18 10. “Rent-restricted unit” means a residential rental unit if the gross rent with
19 respect to the unit does not exceed 30 percent of area median gross income,
20 determined as if the unit is occupied by one individual in a unit without a separate
21 bedroom and 1.5 individuals for each separate bedroom in any other unit.

22 11. “Tenant income” means the income determined under 26 USC 142 (d) (2)
23 (B) of individuals occupying a residential rental unit.

24 (b) *Filing claims.* Subject to the limitations provided in this subsection and in
25 s. 234.46, for taxable years beginning after December 31, 2020, a claimant may claim

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1 as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, the
2 amount allocated to the claimant by the authority under s. 234.46 for each taxable
3 year within the credit period.

4 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
5 claimant includes with the claimant's return a copy of the allocation certificate
6 issued for the qualified housing development.

7 2. A partnership, limited liability company, or tax-option corporation may not
8 claim the credit under this subsection. The partners of a partnership, members of
9 a limited liability company, or shareholders in a tax-option corporation may claim
10 the credit under this subsection based on eligible costs incurred by the partnership,
11 limited liability company, or tax-option corporation. The partnership, limited
12 liability company, or tax-option corporation shall calculate the amount of the credit
13 that may be claimed by each partner, member, or shareholder and shall provide that
14 information to each of them. Credits computed by a partnership or limited liability
15 company may be claimed in proportion to the ownership interests of the partners or
16 members or allocated to partners or members as provided in a written agreement
17 among the partners or members that is entered into no later than the last day of the
18 taxable year of the partnership or limited liability company for which the credit is
19 claimed. Any partner or member who claims the credit as allocated by a written
20 agreement shall provide a copy of the agreement with the tax return on which the
21 credit is claimed. For shareholders of a tax-option corporation, the credit may be
22 allocated in proportion to the ownership interest of each shareholder. A person
23 claiming the credit as provided under this subdivision is solely responsible for any
24 tax liability arising from a dispute with the department related to claiming the
25 credit.

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1 (d) *Recapture*. 1. As of the last day of any taxable year during the compliance
2 period, if the qualified basis of a qualified housing development with respect to a
3 claimant is less than the qualified basis as of the last day of the previous taxable year,
4 the amount of the claimant's tax liability under this subchapter shall be increased
5 by an amount equal to the excess of the aggregate credit claimed under this
6 subsection in prior taxable years over the aggregate credit that would be claimed in
7 those years if the full credit amount allocated to the claimant for the credit period
8 was claimed ratably over 10 years, plus interest at the overpayment rate established
9 under 26 USC 6621.

10 2. Subdivision 1. does not apply if the reduction in qualified basis for the
11 taxable year is by reason of a casualty loss if the loss is restored by reconstruction
12 or replacement within a reasonable period; a minimal change in floor space; or the
13 disposition of an interest in the qualified housing development if it is reasonably
14 expected that the development will continue to be operated as a qualified housing
15 development for the remainder of the compliance period.

16 3. In the event that the recapture of a credit is required in a taxable year, the
17 taxpayer shall include the recaptured amount on the return submitted for the
18 taxable year in which the recapture event is identified.

19 4. The department shall promulgate rules to implement this paragraph.

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

22 **SECTION 4.** 71.30 (3) (cu) of the statutes is created to read:

23 71.30 (3) (cu) State workforce housing credit under s. 71.28 (8f).

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

25 71.47 (8f) STATE WORKFORCE HOUSING CREDIT. (a) *Definitions*. In this subsection:

SENATE BILL 172**SECTION 5**

1 1. “Allocation certificate” means a statement issued by the authority certifying
2 that a qualified housing development is eligible for a credit under this subsection and
3 specifying the amount of the credit that the owners of the qualified housing
4 development may claim for each taxable year of the credit period.

5 2. “Area median gross income” has the meaning as used for purposes of 26 USC
6 42.

7 3. “Authority” means the Wisconsin Housing and Economic Development
8 Authority.

9 4. “Claimant” means a person who has an ownership interest in a qualified
10 housing development and who files a claim under this subsection.

11 5. “Compliance period” means the 10-year period beginning with the first
12 taxable year of the credit period.

13 6. “Credit period” means the 6-year period beginning with the taxable year in
14 which a qualified housing development is placed in service. For purposes of this
15 subdivision, if a qualified housing development consists of more than one building,
16 the qualified housing development is placed in service in the taxable year in which
17 the last building is placed in service.

18 7. “Qualified basis” means the amount equal to the applicable fraction of the
19 adjusted basis of the qualified housing development as of the close of the first taxable
20 year of the credit period. The applicable fraction is the smaller of a fraction whose
21 numerator is the number of qualified units in the qualified housing development and
22 denominator is the total number of residential rental units in the qualified housing
23 development or a fraction whose numerator is the total floor space of the qualified
24 units in the qualified housing development and denominator is the total floor space
25 of all the residential rental units in the qualified housing development. In

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1 calculating the applicable fraction, the number of qualified units and residential
2 rental units and the amount of floor space shall be determined as of the close of the
3 taxable year.

4 8. “Qualified housing development” means a residential rental property
5 development located in this state if at least 25 percent of the development’s
6 residential rental units are rent-restricted units and occupied by individuals whose
7 tenant income is at least 61 percent but not more than 100 percent of area median
8 gross income.

9 9. “Qualified unit” means a rent-restricted unit that is occupied by individuals
10 whose tenant income is at least 61 percent but not more than 100 percent of area
11 median gross income.

12 10. “Rent-restricted unit” means a residential rental unit if the gross rent with
13 respect to the unit does not exceed 30 percent of area median gross income,
14 determined as if the unit is occupied by one individual in a unit without a separate
15 bedroom and 1.5 individuals for each separate bedroom in any other unit.

16 11. “Tenant income” means the income determined under 26 USC 142 (d) (2)
17 (B) of individuals occupying a residential rental unit.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection and in
19 s. 234.46, for taxable years beginning after December 31, 2020, a claimant may claim
20 as a credit against the taxes imposed under s. 71.43, up to the amount of the tax, the
21 amount allocated to the claimant by the authority under s. 234.46 for each taxable
22 year within the credit period.

23 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
24 claimant includes with the claimant’s return a copy of the allocation certificate
25 issued for the qualified housing development.

SENATE BILL 172**SECTION 5**

1 2. A partnership, limited liability company, or tax-option corporation may not
2 claim the credit under this subsection. The partners of a partnership, members of
3 a limited liability company, or shareholders in a tax-option corporation may claim
4 the credit under this subsection based on eligible costs incurred by the partnership,
5 limited liability company, or tax-option corporation. The partnership, limited
6 liability company, or tax-option corporation shall calculate the amount of the credit
7 that may be claimed by each partner, member, or shareholder and shall provide that
8 information to each of them. Credits computed by a partnership or limited liability
9 company may be claimed in proportion to the ownership interests of the partners or
10 members or allocated to partners or members as provided in a written agreement
11 among the partners or members that is entered into no later than the last day of the
12 taxable year of the partnership or limited liability company for which the credit is
13 claimed. Any partner or member who claims the credit as allocated by a written
14 agreement shall provide a copy of the agreement with the tax return on which the
15 credit is claimed. For shareholders of a tax-option corporation, the credit may be
16 allocated in proportion to the ownership interest of each shareholder. A person
17 claiming the credit as provided under this subdivision is solely responsible for any
18 tax liability arising from a dispute with the department related to claiming the
19 credit.

20 (d) *Recapture.* 1. As of the last day of any taxable year during the compliance
21 period, if the qualified basis of a qualified housing development with respect to a
22 claimant is less than the qualified basis as of the last day of the previous taxable year,
23 the amount of the claimant's tax liability under this subchapter shall be increased
24 by an amount equal to the excess of the aggregate credit claimed under this
25 subsection in prior taxable years over the aggregate credit that would be claimed in

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1 those years if the full credit amount allocated to the claimant for the credit period
2 was claimed ratably over 10 years, plus interest at the overpayment rate established
3 under 26 USC 6621.

4 2. Subdivision 1. does not apply if the reduction in qualified basis for the
5 taxable year is by reason of a casualty loss if the loss is restored by reconstruction
6 or replacement within a reasonable period; a minimal change in floor space; or a
7 disposition of an interest in the qualified housing development if it is reasonably
8 expected that the development will continue to be operated as a qualified housing
9 development for the remainder of the compliance period.

10 3. In the event that the recapture of a credit is required in a taxable year, the
11 taxpayer shall include the recaptured amount on the return submitted for the
12 taxable year in which the recapture event is identified.

13 4. The department shall promulgate rules to implement this paragraph.

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

16 **SECTION 6.** 71.49 (1) (cu) of the statutes is created to read:

17 71.49 (1) (cu) State workforce housing credit under s. 71.47 (8f).

18 **SECTION 7.** 76.6395 of the statutes is created to read:

19 **76.6395 State workforce housing credit. (1) DEFINITIONS.** In this section:

20 (a) "Allocation certificate" means a statement issued by the authority certifying
21 that a qualified housing development is eligible for a credit under this section and
22 specifying the amount of the credit that the owners of the qualified housing
23 development may claim for each taxable year of the credit period.

24 (b) "Area median gross income" has the meaning as used for purposes of 26 USC
25 42.

SENATE BILL 172**SECTION 7**

1 (c) "Authority" means the Wisconsin Housing and Economic Development
2 Authority.

3 (d) "Claimant" means a person who has an ownership interest in a qualified
4 housing development and who files a claim under this section.

5 (e) "Compliance period" means the 10-year period beginning with the first
6 taxable year of the credit period.

7 (f) "Credit period" means the 6-year period beginning with the taxable year in
8 which a qualified housing development is placed in service. For purposes of this
9 paragraph, if a qualified housing development consists of more than one building,
10 the qualified housing development is placed in service in the taxable year in which
11 the last building is placed in service.

12 (g) "Qualified basis" means the amount equal to the applicable fraction of the
13 adjusted basis of the qualified housing development as of the close of the first taxable
14 year of the credit period. The applicable fraction is the smaller of a fraction whose
15 numerator is the number of qualified units in the qualified housing development and
16 denominator is the total number of residential rental units in the qualified housing
17 development or a fraction whose numerator is the total floor space of the qualified
18 units in the qualified housing development and denominator is the total floor space
19 of all the residential rental units in the qualified housing development. In
20 calculating the applicable fraction, the number of qualified units and residential
21 rental units and the amount of floor space shall be determined as of the close of the
22 taxable year.

23 (h) "Qualified housing development" means a residential rental property
24 development located in this state if at least 25 percent of the development's
25 residential rental units are rent-restricted units and occupied by individuals whose

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1 tenant income is at least 61 percent but not more than 100 percent of area median
2 gross income.

3 (i) "Qualified unit" means a rent-restricted unit that is occupied by individuals
4 whose tenant income is at least 61 percent but not more than 100 percent of area
5 median gross income.

6 (j) "Rent-restricted unit" means a residential rental unit if the gross rent with
7 respect to the unit does not exceed 30 percent of area median gross income,
8 determined as if the unit is occupied by one individual in a unit without a separate
9 bedroom and 1.5 individuals for each separate bedroom in any other unit.

10 (k) "Tenant income" means the income determined under 26 USC 142 (d) (2)
11 (B) of individuals occupying a residential rental unit.

12 **(2) FILING CLAIMS.** Subject to the limitations provided in this section and in s.
13 234.46, for taxable years beginning after December 31, 2020, a claimant may claim
14 as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67 the
15 amount allocated to the claimant by the authority under s. 234.46 for each taxable
16 year within the credit period.

17 **(3) LIMITATIONS.** (a) No insurer may claim the credit under sub. (2) unless the
18 claimant includes with the claimant's return a copy of the allocation certificate
19 issued for the qualified housing development.

20 (b) An insurer that is a partner or member of a partnership or limited liability
21 company that directly or indirectly owns a qualified housing development may claim
22 the credit under sub. (2) in proportion to the insurer's percentage ownership interest
23 in the partnership or limited liability company or in accordance with the allocation
24 of credits to the insurer pursuant to a written agreement among the partners or

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1 members of the partnership or limited liability company that is entered into no later
2 than the last day of the taxable year of the partnership or limited liability company.

3 (4) RECAPTURE. (a) As of the last day of any taxable year during the compliance
4 period, if the qualified basis of a qualified housing development with respect to a
5 claimant is less than the qualified basis as of the last day of the previous taxable year,
6 the amount of the claimant's tax liability under s. 76.60, 76.63, 76.65, 76.66, or 76.67
7 shall be increased by an amount equal to the excess of the aggregate credit claimed
8 under this section in prior taxable years over the aggregate credit that would be
9 claimed in those years if the full credit amount allocated to the claimant for the credit
10 period was claimed ratably over 10 years, plus interest at the overpayment rate
11 established under 26 USC 6621.

12 (b) Paragraph (a) does not apply if the reduction in qualified basis for the
13 taxable year is by reason of a casualty loss if the loss is restored by reconstruction
14 or replacement within a reasonable period; a minimal change in floor space; or a
15 disposition of an interest in the qualified housing development if it is reasonably
16 expected that the development will continue to be operated as a qualified housing
17 development for the remainder of the compliance period.

18 (c) In the event that the recapture of a credit is required in a taxable year, the
19 taxpayer shall include the recaptured amount of the credit on the return submitted
20 for the taxable year in which the recapture event is identified.

21 (d) The department shall promulgate rules to implement this subsection.

22 (5) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the
23 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
24 may be carried forward and credited against those fees for the following 15 years to
25 the extent that it is not offset by those fees otherwise due in all the years between

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1 the year in which the expense was made and the year in which the carry-forward
2 credit is claimed.

3 **SECTION 8.** 76.67 (2) of the statutes is amended to read:

4 76.67 (2) If any domestic insurer is licensed to transact insurance business in
5 another state, this state may not require similar insurers domiciled in that other
6 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
7 a domestic insurer is required to pay to that other state for the same year less the
8 credits under ss. 76.635, 76.636, 76.637, 76.638, 76.639, 76.6395, and 76.655, except
9 that the amount imposed shall not be less than the total of the amounts due under
10 ss. 76.65 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375 percent of its
11 gross premiums, as calculated under s. 76.62, less offsets allowed under s. 646.51 (7)
12 or under ss. 76.635, 76.636, 76.637, 76.638, 76.639, 76.6395, and 76.655 against that
13 total, and except that the amount imposed shall not be less than the amount due
14 under s. 601.93.

15 **SECTION 9.** 234.46 of the statutes is created to read:

16 **234.46 State workforce housing tax credits. (1) DEFINITIONS.** In this
17 section:

18 (a) "Allocation certificate" means a statement issued by the authority certifying
19 that a qualified housing development is eligible for a credit under this section and
20 specifying the amount of the credit that the owners of the qualified housing
21 development may claim for each taxable year of the credit period.

22 (b) "Area median gross income" has the meaning as used for purposes of 26 USC
23 42.

24 (c) "Compliance period" means the 10-year period beginning with the first
25 taxable year of the credit period.

SENATE BILL 172**SECTION 9**

1 (d) "Credit period" means the 6-year period beginning with the taxable year
2 in which a qualified housing development is placed in service. For purposes of this
3 paragraph, if a qualified housing development consists of more than one building,
4 the qualified housing development is placed in service in the taxable year in which
5 the last building is placed in service.

6 (e) "Qualified housing development" means a residential rental property
7 development located in this state if at least 25 percent of the development's
8 residential rental units are rent-restricted units and occupied by individuals whose
9 tenant income is at least 61 percent but not more than 100 percent of area median
10 gross income.

11 (f) "Qualified unit" means a rent-restricted unit that is occupied by individuals
12 whose tenant income is at least 61 percent but not more than 100 percent of area
13 median gross income.

14 (g) "Rent-restricted unit" means a residential rental unit if the gross rent with
15 respect to the unit does not exceed 30 percent of area median gross income,
16 determined as if the unit is occupied by one individual in a unit without a separate
17 bedroom and 1.5 individuals for each separate bedroom in any other unit.

18 (h) "State tax credit" means a tax credit under s. 71.07 (8f), 71.28 (8f), 71.47 (8f),
19 or 76.6395.

20 (i) "Tenant income" means the income determined under 26 USC 142 (d) (2) (B)
21 of individuals occupying a residential rental unit.

22 **(2) ESTABLISHMENT OF PROGRAM.** The authority shall establish a program to
23 certify persons to claim state tax credits, in amounts determined by the authority,
24 under this section.

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1 **(3) CERTIFICATION.** The authority may certify a person to claim a state tax credit
2 by issuing the person an allocation certificate for the qualified housing development.
3 The allocation certificate shall state the amount the authority determines the person
4 is eligible to claim for each year of the credit period, the name and address of the
5 person, the person's Wisconsin tax identification number, and any other information
6 required by the authority or the department of revenue. The authority shall provide
7 a copy of the allocation certificate to the department of revenue. The authority shall
8 issue allocation certificates annually, on a rolling basis, based on eligibility, as
9 determined by the authority, except that the authority may develop a competitive
10 process to award allocation certificates as a part of its qualified allocation plan under
11 sub. (4). The authority may issue an allocation certificate under this subsection only
12 if all of the following conditions are satisfied:

13 (a) The allocation certificate is issued to a person who has an ownership
14 interest in the qualified housing development.

15 (b) The state tax credit is necessary for the financial feasibility of the qualified
16 housing development.

17 (c) The qualified housing development is the subject of a recorded restrictive
18 covenant requiring that, for the compliance period or for a longer period agreed to
19 by the authority and the owner of the qualified housing development, the
20 development shall be maintained and operated as a qualified housing development
21 and shall be in compliance with Title VIII of the federal Civil Rights Act of 1968, as
22 amended.

23 (d) The allocation certificate is issued in accordance with the authority's
24 qualified allocation plan under sub. (4).

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1 **(4) ALLOCATION PLAN.** The authority shall develop a qualified allocation plan
2 that sets forth selection criteria to determine housing priorities for individuals
3 whose income is at least 61 percent but not more 100 percent of area median gross
4 income. The housing priorities shall be appropriate for local conditions. The
5 selection criteria shall include project location, housing needs characteristics,
6 project characteristics, sponsor characteristics, tenant populations with special
7 housing needs, tenant populations of individuals with children, projects intended for
8 eventual tenant ownership, the energy efficiency of the project, and the historic
9 nature of the project. The plan shall include procedures to monitor noncompliance
10 with this section and with habitability standards.

11 **(5) ALLOCATION LIMITS.** In any calendar year, the aggregate amount of all state
12 tax credits for which the authority certifies persons in allocation certificates issued
13 under sub. (3) in that year may not exceed \$42,000,000, including all amounts each
14 person is eligible to claim for each year of the credit period, plus the total amount of
15 all unallocated state tax credits from previous calendar years and plus the total
16 amount of all previously allocated state tax credits that have been revoked, canceled,
17 or otherwise recovered by the authority.

18 **(6) PREFERENCE FOR SMALLER MUNICIPALITIES.** In issuing allocation certificates
19 under sub. (3), the authority shall give preference to qualified housing developments
20 located in a city, village, or town with a population of fewer than 150,000.

21 **(7) REPORT.** No later than December 31 of each year, the authority shall submit
22 a report to the legislature under s. 13.172 (2) that includes all of the following:

23 (a) A description of each qualified housing development for which the authority
24 issued an allocation certificate that year, including the development's geographic
25 location, the household type and any specific demographic information available

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1 concerning the residents intended to be served by the development, the income levels
2 of residents intended to be served by the development, and the rents or set-asides
3 authorized for the development.

4 (b) An analysis of housing market and demographic information that shows
5 how the qualified housing developments for which the authority has issued
6 allocation certificates at any time are addressing the need for affordable housing
7 within the communities the developments are intended to serve and an analysis of
8 remaining disparities in the affordability of housing within those communities.

9 (8) POLICIES AND PROCEDURES. The authority, in consultation with the
10 department of revenue, shall establish policies and procedures to administer this
11 section.

12

(END)