2011 ASSEMBLY BILL 532

February 7, 2012 – Introduced by Representatives CLARK, BEWLEY, C. TAYLOR, ZEPNICK, HEBL, BERCEAU, ROYS, SINICKI, MASON, GRIGSBY and FIELDS, cosponsored by Senators HOLPERIN, SCHULTZ, RISSER, HANSEN and TAYLOR. Referred to Committee on Rural Economic Development and Rural Affairs.

AN ACT to create 234.835 of the statutes; relating to: creating a neighborhood business revitalization loan guarantee program in the Wisconsin Housing and Economic Development Authority.

Analysis by the Legislative Reference Bureau

This bill creates a Neighborhood Business Revitalization Loan Guarantee Program (program) to be administered by the Wisconsin Housing and Economic Development Authority (WHEDA). Under the program, WHEDA may guarantee repayment of a certain portion of a loan made by a private lender to an eligible borrower. The bill defines an eligible borrower as both of the following: 1) a small business with its principal place of business in this state and an annual gross revenue of less than $1,000,000 if the owner of the business or a person proposing to acquire the business is or will be actively engaged in the business and if the project proposed by the owner or prospective owner involves expanding the business (eligible business borrower); or 2) a developer if the project proposed by the developer involves developing or rehabilitating commercial real estate or mixed-use properties and the developer is actively engaged in the project.

Proceeds of a loan guaranteed under the program may be used on an eligible project, including any of the following: a) the purchase or improvement of real property by an eligible borrower; b) the expansion or acquisition of a small business by an eligible business borrower; c) the funding of leasehold improvements by an eligible business borrower; and d) the funding of permanent or revolving working capital by an eligible business borrower. An eligible business borrower may also
refinance existing debt if the borrower also expands an existing business. The bill requires WHEDA to give priority to projects located in an area designated as a business area under the State Main Street Program or in an area designated as a business improvement district.

WHEDA may guarantee up to the lesser of $750,000 or 75 percent of the principal of a loan if the proceeds of the loan are used on an eligible project that involves the acquisition of fixed assets or inventory or permanent working capital, and up to the lesser of $200,000 or 75 percent of the principal of a loan if the proceeds of the loan are used on an eligible project that involves revolving working capital.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 234.835 of the statutes is created to read:

234.835 Neighborhood business revitalization loan guarantee program. (1) DEFINITIONS. In this section:

(a) “Mixed-use property” means real property with both commercial and residential components.

(b) “Small business” means a business that has its principal place of business in this state and that has an annual gross revenue of less than $1,000,000.

(2) GUARANTEE REQUIREMENTS; PRIORITY. (a) The authority may use money from the Wisconsin development reserve fund to guarantee a loan under this section if all of the following apply:

1. The borrower qualifies as an eligible borrower under sub. (3).

2. The loan qualifies as an eligible loan under sub. (4).

3. The lender enters into an agreement under s. 234.93 (2) (a).

(b) The authority shall give priority to an eligible borrower seeking guarantee of an eligible loan under this section if the project proposed by the borrower is located within either of the following:

1. A business area selected for revitalization under s. 238.127.
2. A business improvement district created under s. 66.1109.

(3) ELIGIBLE BORROWER. Any of the following qualifies as an eligible borrower if unable to obtain adequate business financing on reasonable terms:

(a) A small business owner or person proposing to acquire a small business to which all of the following apply:

1. The owner of the business or the person proposing to acquire the business is or will be actively engaged in the business.

2. The project proposed by the owner of the business or the person proposing to acquire the business is an eligible project under sub. (4) (a) that involves expanding the size or scope of the business.

3. The name of any individual who owns or controls any portion of the business or of any individual proposing to acquire the business does not appear on the statewide support lien docket under s. 49.854 (2) (b) or, if the name of the owner of the business or of the person proposing to acquire the business appears on that docket, the owner of the business or the person proposing to acquire the business provides to the authority a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a).

(b) A developer to which all of the following apply:

1. The project proposed by the developer is an eligible project under sub. (4) (a) that involves developing or rehabilitating commercial real estate, including mixed-use properties, where a business occupies a portion of the commercial real estate.
2. The developer is actively engaged in the project described in subd. 1. This subdivision does not require the developer to locate its business in the commercial real estate described in subd. 1.

3. The name of any individual who owns or controls any portion of the developer does not appear on the statewide support lien docket under s. 49.854 (2) (b) or, if the name of the developer appears on that docket, the developer provides to the authority a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a).

4) Eligible Loans. A loan is eligible for guarantee of collection from the Wisconsin development reserve fund under s. 234.93 if all of the following apply:

(a) The borrower uses the loan proceeds for direct or related expenses associated with any of the following eligible projects:

1. The purchase or improvement of real property, including mixed-use property, by an eligible borrower under sub. (3).

2. The expansion or acquisition of a small business, including the purchase or improvement of land, buildings, machinery, equipment, or inventory, by an eligible borrower under sub. (3) (a).

3. The funding of leasehold improvements by an eligible borrower under sub. (3) (a).

4. The funding of permanent or revolving working capital by an eligible borrower under sub. (3) (a).

5. The financing of soft costs not to exceed 5 percent of eligible project costs by an eligible borrower under sub. (3).
(b) The interest rate on the loan, including any origination fees or other charges, is approved by the authority and the interest rate on the loan does not exceed the prime lending rate at the time the rate is set, as reported by the federal reserve board in federal reserve statistical release H. 15, plus 2.75 percent.

(c) The lender secures the loan by the assets being financed and believes that it is reasonably likely that the borrower will be able to repay the loan in full with interest.

(d) The lender agrees to the percentage of guarantee established for the loan by the authority.

(e) The authority believes that the eligible project will have a positive impact on the creation or retention of jobs in this state.

(f) The borrower does not use loan proceeds to refinance existing debt or for entertainment expenses, expenses related to the production of an agricultural commodity, as defined in s. 94.67 (2), or expenses related to a community-based residential facility, except that the borrower may use loan proceeds to refinance existing debt if the borrower is an eligible borrower under sub. (3) (a) and if the borrower also expands an existing business.

(5) GUARANTEE OF REPAYMENT. (a) The authority may guarantee repayment of a portion of the principal of any loan eligible for a guarantee under sub. (2). Subject to pars. (b) and (c), the authority shall establish the portion of the principal of an eligible loan that will be guaranteed, using the procedures described in the agreement under s. 234.93 (2) (a). The authority may establish a single portion for all guaranteed loans that do not exceed $250,000 and a single portion for all guaranteed loans that exceed $250,000 or establish on an individual basis different
portions for eligible loans that do not exceed $250,000 and different portions for eligible loans that exceed $250,000.

(b) For an eligible project under sub. (4) (a) that involves the acquisition of fixed assets or inventory or permanent working capital, the portion of the principal of a loan eligible for a guarantee under sub. (2) may not exceed 75 percent of the principal of the loan or $750,000, whichever is less. The guarantee under this paragraph may not extend 5 years beyond the date on which the lender disburses the loan.

(c) For an eligible project under sub. (4) (a) that involves revolving working capital, the portion of the principal of a loan eligible for a guarantee under sub. (2) may not exceed 75 percent of the principal of the loan or $200,000, whichever is less. The guarantee under this paragraph may not extend 2 years beyond the date on which the lender disburses the loan.