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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2019 Assembly Bill 328**

**Assembly  
Amendment 1**

### CURRENT LAW

The agricultural development loan guarantee program allows the Wisconsin Housing and Economic Development Authority (WHEDA) to guarantee certain loans made by a participating lender<sup>1</sup> for working capital or to finance physical plant, machinery or equipment, or marketing expenses. For a loan to be eligible for WHEDA's guarantee, the working capital or item being financed must be necessary to, or used to, process or market a product from a raw agricultural commodity produced in Wisconsin or to commercially harvest whitefish from Lake Superior.

By statute, WHEDA may guarantee collection of up to 90 percent of the principal of any eligible loan. In practice, WHEDA has set a maximum guarantee of 50 percent of the unpaid principal of an eligible loan. WHEDA may guarantee up to \$750,000 per borrower, except that it may guarantee only up to \$100,000 per borrower for working capital or for an item necessary to, or used to, commercially harvest whitefish.<sup>2</sup>

Generally, the term of a loan guarantee under the program may not exceed 15 years. However, this limit does not apply to a loan that is part of a loan workout agreement. [s. 234.907, Stats.]

### 2019 ASSEMBLY BILL 328

The bill makes modifications to the existing program and requires WHEDA to implement a new agricultural development loan guarantee pilot program.

#### Changes to the Current Program

The bill makes two modifications to the existing program. First, the bill specifies that the loan guarantee generally may not exceed 10 years for land and buildings, five years for inventory, equipment, and machinery, and two years for "permanent" working capital and marketing expenses. The bill retains the exception in current law that applies to a loan that is part of a loan workout agreement. Second, the bill caps the closing fee for WHEDA's loan guarantee under the program at 1.5 percent.

#### Creation of a New Pilot Program

The bill requires WHEDA to allocate at least \$3,000,000 for loan guarantees under a new pilot program. Under the pilot program, WHEDA may guarantee collection of the lesser of \$750,000 or 25 percent of the principal of any loan eligible under the agricultural development loan guarantee

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<sup>1</sup> "Participating lender" is defined to mean "a bank, credit union, savings bank, savings and loan association or other person, who makes loans for working capital or to finance physical plant needs, equipment or machinery and who has entered into an agreement with the authority under s. 234.93 (2) (a)." [s. 234.907 (1) (e), Stats.]

<sup>2</sup> Section 234.907 (2), Stats., specifies numerous other conditions – unaffected by the bill – that must be satisfied for a loan to be eligible for guarantee of collection by WHEDA.

program. The amount guaranteed must be payable in full to the authorized lender for the entire term of the guarantee regardless of the amount of unpaid principal due at the time of default, if a default occurs. Loans guaranteed under the pilot program are otherwise subject to the eligibility requirements of the existing program, as modified by the bill.

The bill takes effect the day after publication and first applies to an application for a loan guarantee received by WHEDA on that date. The bill sunsets the pilot program as of July 1, 2024; WHEDA may not guarantee a loan under the pilot program on or after that date.

## **ASSEMBLY AMENDMENT 1**

The amendment makes the following changes to the bill:

- Provides that, in the event of a default on a loan guaranteed by WHEDA under the pilot program, the amount guaranteed must be payable in full to the authorized lender regardless of the amount due after all available collateral securing the loan has been liquidated and applied to the loan. However, the amendment provides an exception for instances where the amount due is less than the amount guaranteed. In those cases, the amount due is payable to the authorized lender.
- Specifies that the amount that WHEDA may guarantee under the existing program and the pilot program created by the bill is only the “disbursed” principal of an eligible loan.
- Provides that a guarantee made for a working capital loan may not exceed two years. The bill specifies that a guarantee made for a “permanent” working capital loan may not exceed two years.<sup>3</sup>
- Clarifies that the guarantee origination fee must be collected by the lender and WHEDA must deposit the fees received in the Wisconsin development reserve fund.

## **BILL HISTORY**

On October 14, 2019, Assembly Amendment 1 was offered by Representative Tauchen. On October 30, 2019, the Assembly Committee on Jobs and the Economy recommended adoption of the amendment and passage of the bill, as amended, on votes of Ayes, 11; Noes, 0.

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<sup>3</sup> Under current law and the bill, WHEDA may guarantee certain loans for working capital. Neither current law, nor the bill, reference “permanent” working capital in the eligibility criteria for a loan guarantee from WHEDA. The only reference to “permanent” working capital is in the limitation on the terms of a loan guarantee provided in the bill.