2019 SENATE BILL 484

October 10, 2019 - Introduced by Senators TESTIN, BERNIER and FEYEN, cosponsored by Representatives NYGREN, TRANEL, SUMMERFIELD, BORN, DITTRICH, FELZKOWSKI, KERKMAN, KITCHENS, KULP, KURTZ, MURSAU, OLDENBURG, PETRYK, PLUMER, QUINN, ROHRKASTE, TUSLER and ZIMMERMAN. Referred to Committee on Utilities and Housing.

AN ACT to amend 76.67 (2); and to create 16.309 (4), 71.07 (8f), 71.10 (4) (fd), 71.28 (8f), 71.30 (3) (cu), 71.47 (8f), 71.49 (1) (cu), 76.6395 and 234.045 of the statutes; relating to: workforce housing tax credits and economic development revolving loan funds.

Analysis by the Legislative Reference Bureau

Workforce housing tax credits

This bill creates a workforce housing tax credit program 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 project for which the credit is issued is an eligible workforce housing project. Under the bill, a project is an eligible workforce housing project only if the project is for the construction or renovation of residential real property located in a county with a population density of less than 155 persons per square mile, there is a need for additional manufacturing workers in the area in which the project is located, and a lack of adequate housing in the area is a barrier to filling that need.

2. The person is a lender financing an eligible workforce housing project, the developer of the project, or the business for whose benefit the project is being carried out.

3. The person has exhausted all funding available for the project from community development block grants, local assistance, including tax incremental financing, and assistance otherwise available from WHEDA.
4. The occupants of the housing being constructed or renovated will have a household income that satisfies the income limitations applicable for the homeownership mortgage loan program administered by WHEDA under current law.

The bill requires WHEDA to establish a competitive process for the award of tax credits that gives priority to all of the following:

1. The number of jobs that will be created in connection with the eligible workforce housing project.
2. The amount of matching funds secured by the applicant.
3. The applicant’s readiness to proceed with the project.

Under the bill, WHEDA may not certify a person to claim a workforce housing tax credit in an amount that exceeds 50 percent of the total cost of the eligible workforce housing project. Additionally, WHEDA may not award more than $10,000,000 in workforce housing tax credits and no credit may be awarded after December 31, 2021. The bill requires WHEDA to transfer $10,000,000 from its surplus fund to the state's general fund as an offset against the tax credits WHEDA awards under the program.

Additionally, the bill includes certain contracting and tax credit revocation requirements and requires WHEDA to coordinate with the Wisconsin Economic Development Corporation to administer the tax credit program. WHEDA must submit a report on the program to the Joint Committee on Finance no later than September 31, 2022.

Reports on economic development revolving loan funds

This bill also requires the Department of Administration to submit an annual report to the Joint Committee on Finance concerning moneys held by DOA in connection with economic development revolving loan funds funded by federal community development block grants administered by DOA, including all moneys derived from the liquidation and close-out of such a revolving loan fund. The report must include all of the following:

1. The balance of the account associated with each revolving loan fund.
2. The accounts receivable for each such account.
3. A detailed description of all expenditures from the account, including a description of each project funded by a grant awarded from the account.
4. A detailed description of all expenditures from the account DOA intends to make before March 15 of the year following the report. Under the bill, if JCF objects to any such intended expenditure, JCF may reallocate the moneys consistent with federal requirements for expenditure of the moneys.

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:
SECTION 1. 16.309 (4) of the statutes is created to read:

16.309 (4) (a) In this subsection, “revolving loan fund account” means all moneys held by the department in connection with each economic development revolving loan fund that is funded by a community development block grant under this section, including all moneys derived from the liquidation and close-out of the revolving loan fund.

(b) Annually, no later than March 15, the department shall submit a report to the joint committee on finance that includes all of the following information for each revolving loan fund account:

1. The account balance.
2. All accounts receivable, if any.
3. A detailed description of all account expenditures, including a description of each project funded by a grant awarded from the account.
4. A detailed description of all account expenditures the department intends to make before March 15 of the year following the report.

(c) If the joint committee on finance objects to any intended expenditure of moneys detailed under par. (b) 4., the committee may reallocate those moneys consistent with federal requirements for expenditure of the moneys.

SECTION 2. 71.07 (8f) of the statutes is created to read:

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

1. “Allocation certificate” means an allocation certificate issued by the Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).
2. “Claimant” means a person who files a claim under this subsection.

(b) Filing claims. For taxable years beginning after December 31, 2019, subject to the limitations provided in this subsection and in s. 234.045, a claimant may claim
as a credit against the tax imposed under s. 71.02, up to the amount of the tax, the
amount specified in the allocation certificate.

(c) Limitations. 1. No person may claim the credit under par. (b) unless the
claimant includes with the claimant’s return a copy of the allocation certificate.

2. A partnership, limited liability company, or tax-option corporation may not
claim the credit under this subsection, but the eligibility for and amount of the credit
are based on the amount specified in the allocation certificate. A partnership, limited
liability company, or tax-option corporation shall compute the amount of credit that
each of its partners, members, or shareholders may claim and shall provide that
information to each of them. Partners, members, and shareholders may claim the
credit in proportion to their ownership interests.

(d) Carry-forward credit. If the credit that a claimant may claim under par.
(b) is not entirely offset against Wisconsin income or franchise taxes otherwise due,
the unused balance shall be carried forward and credited against Wisconsin income
or franchise taxes otherwise due for the following 10 taxable years to the extent not
offset by these taxes in all intervening years between the year in which the credit is
allowed under the allocation certificate and the year in which the carry-forward
credit is claimed.

(e) Transfer. Any person may sell or otherwise transfer the credit under par.
(b), in whole or in part, to another person who is subject to the taxes or fees imposed
under s. 71.02, 71.23, or 71.43 or subch. III of ch. 76 if the person notifies the
department of the transfer and submits with the notification a copy of the transfer
documents, and the department certifies the change in the credit’s ownership.

(f) Administration. Section 71.28 (4) (e), (g), and (h), as it applies to the credit
under s. 71.28 (4), applies to the credit under this subsection.
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SECTION 3. 71.10 (4) (fd) of the statutes is created to read:

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

SECTION 4. 71.28 (8f) of the statutes is created to read:

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

1. “Allocation certificate” means an allocation certificate issued by the Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

2. “Claimant” means a person who files a claim under this subsection.

(b) Filing claims. For taxable years beginning after December 31, 2019, subject to the limitations provided in this subsection and in s. 234.045, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, the amount specified in the allocation certificate.

(c) Limitations. 1. No person may claim the credit under par. (b) unless the claimant includes with the claimant’s return a copy of the allocation certificate.

2. A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection, but the eligibility for and amount of the credit are based on the amount specified in the allocation certificate. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members, and shareholders may claim the credit in proportion to their ownership interests.

(d) Carry-forward credit. If the credit that a claimant may claim under par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance shall be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 10 taxable years to the extent not offset by these taxes in all intervening years between the year in which the credit is
allowed under the allocation certificate and the year in which the carry-forward
credit is claimed.

(e) *Transfer.* Any person may sell or otherwise transfer the credit under par. (b), in whole or in part, to another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, or 71.43 or subch. III of ch. 76 if the person notifies the department of the transfer and submits with the notification a copy of the transfer documents, and the department certifies the change in the credit’s ownership.

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

**SECTION 5.** 71.30 (3) (cu) of the statutes is created to read:

71.30 (3) (cu) Workforce housing credit under s. 71.28 (8f).

**SECTION 6.** 71.47 (8f) of the statutes is created to read:

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

1. “Allocation certificate” means an allocation certificate issued by the Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

2. “Claimant” means a person who files a claim under this subsection.

(b) *Filing claims.* For taxable years beginning after December 31, 2019, subject to the limitations provided in this subsection and in s. 234.045, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, the amount specified in the allocation certificate.

(c) *Limitations.* 1. No person may claim the credit under par. (b) unless the claimant includes with the claimant’s return a copy of the allocation certificate.

2. A partnership, limited liability company, or tax–option corporation may not claim the credit under this subsection, but the eligibility for and amount of the credit are based on the amount specified in the allocation certificate. A partnership, limited
liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members, and shareholders may claim the credit in proportion to their ownership interests.

(d) *Carry-forward credit.* If the credit that a claimant may claim under par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance shall be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 10 taxable years to the extent not offset by these taxes in all intervening years between the year in which the credit is allowed under the allocation certificate and the year in which the carry-forward credit is claimed.

(e) *Transfer.* Any person may sell or otherwise transfer the credit under par. (b), in whole or in part, to another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, or 71.43 or subch. III of ch. 76 if the person notifies the department of the transfer and submits with the notification a copy of the transfer documents, and the department certifies the change in the credit’s ownership.

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

**SECTION 7.** 71.49 (1) (cu) of the statutes is created to read:

71.49 (1) (cu) Workforce housing credit under s. 71.47 (8f).

**SECTION 8.** 76.6395 of the statutes is created to read:

76.6395  *Workforce housing credit.* 1) **DEFINITIONS.** In this section:

(a) “Allocation certificate” means an allocation certificate issued by the Wisconsin Housing and Economic Development Authority under s. 234.045 (3) (a).

(b) “Claimant” means a person who files a claim under this subsection.
(2) FILING CLAIMS. For taxable years beginning after December 31, 2019, subject to the limitations provided in this section and in s. 234.045, a claimant may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67 the amount specified in the allocation certificate.

(3) LIMITATIONS. No person may claim the credit under sub. (2) unless the claimant includes with the claimant’s return a copy of the allocation certificate.

(4) CARRY-FORWARD. If the credit that a claimant may claim under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance shall be carried forward and credited against those fees for the following 10 taxable years to the extent not offset by the fees in all intervening years between the year in which the credit is allowed under the allocation certificate and the year in which the carry-forward credit is claimed.

(5) TRANSFER. Any person may sell or otherwise transfer the credit under sub. (2), in whole or in part, to another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, 71.43, 76.60, 76.63, 76.65, 76.66, or 76.67 if the person notifies the department of the transfer and submits with the notification a copy of the transfer documents, and the department certifies the change in the credit’s ownership.

SECTION 9. 76.67 (2) of the statutes is amended to read:

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

SECTION 10. 234.045 of the statutes is created to read:

234.045 Workforce housing tax credits. (1) DEFINITIONS. In this section:

(a) “Allocation certificate” means a statement issued by the authority certifying
that an eligible recipient may claim tax benefits and specifying the amount of the tax
benefits that the eligible recipient may claim.

(b) “Lender” means any banking institution, savings bank, savings and loan
association, or credit union organized under the laws of this state.

(c) “Tax benefits” means the tax credit under ss. 71.07 (8f), 71.28 (8f), 71.47 (8f),
and 76.6395.

(2) ESTABLISHMENT OF PROGRAM. The authority shall establish and administer
a program under this section for the award of tax benefits to encourage the creation
of workforce housing in this state.

(3) CERTIFICATIONS. (a) The authority may certify a person to claim tax benefits
in an amount determined by the authority by issuing the person an allocation
certificate. The allocation certificate shall state the amount the authority
determines the person is eligible to claim.

(b) With respect to any eligible workforce housing project, the authority may
issue an allocation certificate under par. (a) to only one of the following:

1. The lender financing the project.

2. The business for whose benefit the project is being carried out.
3. The developer of the project.

(c) A project is an eligible workforce housing project under par. (b) only if all of the following requirements are satisfied:

1. The project is for the construction or renovation of residential real property that is located in a county with a population density of less than 155 persons per square mile.

2. The person applying for tax benefits demonstrates to the satisfaction of the authority that there is a need for additional manufacturing workers in the area in which the project is located and that a lack of adequate housing in the area is a barrier to filling that need.

3. The occupants of the housing being constructed or renovated will have a household income that satisfies the income limitations applicable for home ownership mortgage loans under s. 234.59.

(d) The authority may not issue an allocation certificate to a person under par. (b) unless the person demonstrates to the satisfaction of the authority that the person has exhausted all funding available from the following:

1. Community development block grants.

2. Local assistance, including tax incremental financing.

3. All assistance otherwise available under programs administered by the authority.

(e) The authority may charge a fee to applicants for allocation certificates under par. (a) for the authority's administrative costs under this section.

(4) LIMITATIONS. (a) The authority may not certify a person to claim tax benefits under sub. (3) (a) in an amount that exceeds 50 percent of the total cost of the eligible workforce housing project.
(b) The aggregate amount of all tax benefits for which the authority certifies persons in allocation certificates issued under sub. (3) (a) may not exceed $10,000,000.

(5) Contract and revocation requirements. (a) The authority shall contract with each recipient of an allocation certificate under sub. (3) (a). The contract shall establish the terms and conditions under which the recipient may claim tax benefits.

(b) The authority shall revoke a person’s allocation certificate, and the person shall repay to the authority all tax benefits already claimed by the person, if the person does any of the following:

1. Supplies false or misleading information to obtain an allocation certificate under sub. (3) (a).

2. Supplies false or misleading information to obtain tax benefits.

3. Breaches the person’s contract with the authority under par. (a).

(6) Policies and procedures. (a) The authority, in consultation with the department of revenue, shall establish policies and procedures to administer this section.

(b) The policies and procedures under par. (a) shall establish a competitive process for the award of allocation certificates under sub. (3) (a) that gives priority to all of the following:

1. The number of jobs that will be created in connection with the eligible workforce housing project.

2. The amount of additional funding for the project the applicant has secured from nonstate sources.

3. The applicant’s readiness to proceed with the project.
(7) COORDINATION. In administering this section, the authority shall coordinate with the Wisconsin Economic Development Corporation.

(8) REPORT. No later than September 31, 2022, the authority shall submit a report to the joint committee on finance that includes all of the following:

(a) A summary of all awards of tax benefits.

(b) The number of applications for tax benefits the authority received.

(c) A description of how much workforce housing was created as a result of the program.

(d) The number of workers who received housing as a result of the program.

(e) The authority’s assessment, including relevant data, of the overall success of the program.

(9) SUNSET. The authority may not issue an allocation certificate under sub. (3) after December 31, 2021.


(1) PAYMENT TO THE GENERAL FUND. No later than June 30, 2020, the Wisconsin Housing and Economic Development Authority shall pay $10,000,000 from the authority’s surplus fund, as specified in s. 234.165 (1), to the secretary of administration for deposit in the general fund. The payment under this subsection is not subject to s. 234.165 (2) (c) and may, at the discretion of the Wisconsin Housing and Economic Development Authority, include surplus amounts previously approved for expenditure for another purpose under s. 234.165 (2) (b).