2021 ASSEMBLY BILL 156

March 10, 2021 - Introduced by Representatives SUMMERFIELD, ARMSTRONG, EDMING, KUGLITSCH, LOUDENBECK, MOSES, MURPHY, ORTIZ-VELEZ, PETRYK, SKOWRONSKI, SPIROS, TITTL, TUSLER and VANDERMEER, cosponsored by Senators BERNIER, BALLWEG and FEYEN. Referred to Committee on Ways and Means.

AN ACT to amend 76.67 (2); and to create 71.07 (8f), 71.10 (4) (fd), 71.28 (8f), 71.30 (3) (cu), 71.47 (8f), 71.49 (1) (cu), 76.6395 and 234.46 of the statutes; relating to: state workforce housing income and franchise tax credit and 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.
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each year by an amount equal to all unallocated credits from prior years and all previously allocated credits that have been revoked, canceled, or otherwise recovered by WHEDA.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:

SECTION 1. 71.07 (8f) of the statutes is created to read:

1. 71.07 (8f) STATE WORKFORCE HOUSING CREDIT. (a) Definitions. In this subsection:

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

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

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

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

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

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

7. “Qualified basis” means the amount equal to the applicable fraction of the adjusted basis of the qualified housing development as of the close of the first taxable year of the credit period. The applicable fraction is the smaller of a fraction whose numerator is the number of qualified units in the qualified housing development and denominator is the total number of residential rental units in the qualified housing development or a fraction whose numerator is the total floor space of the qualified units in the qualified housing development and denominator is the total floor space of all the residential rental units in the qualified housing development. In calculating the applicable fraction, the number of qualified units and residential rental units and the amount of floor space shall be determined as of the close of the taxable year.

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

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

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

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

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

(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 issued for the qualified housing development.

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

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

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

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

4. The department shall promulgate rules to implement this paragraph.
(e) Administration. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 2. 71.10 (4) (fd) of the statutes is created to read:

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

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

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

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

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

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

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

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

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

7. “Qualified basis” means the amount equal to the applicable fraction of the adjusted basis of the qualified housing development as of the close of the first taxable
year of the credit period. The applicable fraction is the smaller of a fraction whose numerator is the number of qualified units in the qualified housing development and denominator is the total number of residential rental units in the qualified housing development or a fraction whose numerator is the total floor space of the qualified units in the qualified housing development and denominator is the total floor space of all the residential rental units in the qualified housing development. In calculating the applicable fraction, the number of qualified units and residential rental units and the amount of floor space shall be determined as of the close of the taxable year.

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

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

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

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

(b) Filing claims. Subject to the limitations provided in this subsection and in s. 234.46, for taxable years beginning after December 31, 2020, a claimant may claim
as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, the
amount allocated to the claimant by the authority under s. 234.46 for each taxable
year within the credit period.

(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
issued for the qualified housing development.

2. A partnership, limited liability company, or tax-option corporation may not
claim the credit under this subsection. The partners of a partnership, members of
a limited liability company, or shareholders in a tax-option corporation may claim
the credit under this subsection based on eligible costs incurred by the partnership,
limited liability company, or tax-option corporation. The partnership, limited
liability company, or tax-option corporation shall calculate the amount of the credit
that may be claimed by each partner, member, or shareholder and shall provide that
information to each of them. Credits computed by a partnership or limited liability
company may be claimed in proportion to the ownership interests of the partners or
members or allocated to partners or members as provided in a written agreement
among the partners or members that is entered into no later than the last day of the
taxable year of the partnership or limited liability company for which the credit is
claimed. Any partner or member who claims the credit as allocated by a written
agreement shall provide a copy of the agreement with the tax return on which the
credit is claimed. For shareholders of a tax-option corporation, the credit may be
allocated in proportion to the ownership interest of each shareholder. A person
claiming the credit as provided under this subdivision is solely responsible for any
tax liability arising from a dispute with the department related to claiming the
credit.
(d) Recapture. 1. As of the last day of any taxable year during the compliance period, if the qualified basis of a qualified housing development with respect to a claimant is less than the qualified basis as of the last day of the previous taxable year, the amount of the claimant’s tax liability under this subchapter shall be increased by an amount equal to the excess of the aggregate credit claimed under this subsection in prior taxable years over the aggregate credit that would be claimed in those years if the full credit amount allocated to the claimant for the credit period was claimed ratably over 10 years, plus interest at the overpayment rate established under 26 USC 6621.

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

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

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

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

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

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

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

71.47 (8f) STATE WORKFORCE HOUSING CREDIT. (a) Definitions. In this subsection:
1. “Allocation certificate” means a statement issued by the authority certifying that a qualified housing development is eligible for a credit under this subsection and specifying the amount of the credit that the owners of the qualified housing development may claim for each taxable year of the credit period.

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

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

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

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

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

7. “Qualified basis” means the amount equal to the applicable fraction of the adjusted basis of the qualified housing development as of the close of the first taxable year of the credit period. The applicable fraction is the smaller of a fraction whose numerator is the number of qualified units in the qualified housing development and denominator is the total number of residential rental units in the qualified housing development or a fraction whose numerator is the total floor space of the qualified units in the qualified housing development and denominator is the total floor space of all the residential rental units in the qualified housing development. In
calculating the applicable fraction, the number of qualified units and residential rental units and the amount of floor space shall be determined as of the close of the taxable year.

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

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

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

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

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

(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 issued for the qualified housing development.
2. A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax-option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, limited liability company, or tax-option corporation. The partnership, limited liability company, or tax-option corporation shall calculate the amount of the credit that may be claimed by each partner, member, or shareholder and shall provide that information to each of them. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company for which the credit is claimed. Any partner or member who claims the credit as allocated by a written agreement shall provide a copy of the agreement with the tax return on which the credit is claimed. For shareholders of a tax-option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. A person claiming the credit as provided under this subdivision is solely responsible for any tax liability arising from a dispute with the department related to claiming the credit.

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

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

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

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

(e) Administration. Section 71.28 (4) (e) to (h), as it applies to the credit under

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

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

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

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

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

(b) “Area median gross income” has the meaning as used for purposes of 26 USC

42.
(c) “Authority” means the Wisconsin Housing and Economic Development Authority.

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

(e) “Compliance period” means the 10-year period beginning with the first taxable year of the credit period.

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

(g) “Qualified basis” means the amount equal to the applicable fraction of the adjusted basis of the qualified housing development as of the close of the first taxable year of the credit period. The applicable fraction is the smaller of a fraction whose numerator is the number of qualified units in the qualified housing development and denominator is the total number of residential rental units in the qualified housing development or a fraction whose numerator is the total floor space of the qualified units in the qualified housing development and denominator is the total floor space of all the residential rental units in the qualified housing development. In calculating the applicable fraction, the number of qualified units and residential rental units and the amount of floor space shall be determined as of the close of the taxable year.

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

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

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

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

(2) **Filing claims.** Subject to the limitations provided in this section and in s. 234.46, for taxable years beginning after December 31, 2020, 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 allocated to the claimant by the authority under s. 234.46 for each taxable year within the credit period.

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

(b) An insurer that is a partner or member of a partnership or limited liability company that directly or indirectly owns a qualified housing development may claim the credit under sub. (2) in proportion to the insurer’s percentage ownership interest in the partnership or limited liability company or in accordance with the allocation of credits to the insurer pursuant to a written agreement among the partners or
members of the partnership or limited liability company that is entered into no later
than the last day of the taxable year of the partnership or limited liability company.

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

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

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

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

(5) Carry-forward. If the credit 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
may be carried forward and credited against those fees for the following 15 years to
the extent that it is not offset by those fees otherwise due in all the years between
the year in which the expense was made and the year in which the carry-forward credit is claimed.

**SECTION 8.** 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 9.** 234.46 of the statutes is created to read:

**234.46 State workforce housing tax credits.** (1) **Definitions.** In this section:

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

(b) “Area median gross income” has the meaning as used for purposes of 26 USC 42.

(c) “Compliance period” means the 10-year period beginning with the first taxable year of the credit period.
(d) “Credit period” means the 6-year period beginning with the taxable year in which a qualified housing development is placed in service. For purposes of this paragraph, if a qualified housing development consists of more than one building, the qualified housing development is placed in service in the taxable year in which the last building is placed in service.

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

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

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

(h) “State tax credit” means a tax credit under s. 71.07 (8f), 71.28 (8f), 71.47 (8f), or 76.6395.

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

(2) Establishment of Program. The authority shall establish a program to certify persons to claim state tax credits, in amounts determined by the authority, under this section.
(3) Certification. The authority may certify a person to claim a state tax credit by issuing the person an allocation certificate for the qualified housing development. The allocation certificate shall state the amount the authority determines the person is eligible to claim for each year of the credit period, the name and address of the person, the person’s Wisconsin tax identification number, and any other information required by the authority or the department of revenue. The authority shall provide a copy of the allocation certificate to the department of revenue. The authority shall issue allocation certificates annually, on a rolling basis, based on eligibility, as determined by the authority, except that the authority may develop a competitive process to award allocation certificates as a part of its qualified allocation plan under sub. (4). The authority may issue an allocation certificate under this subsection only if all of the following conditions are satisfied:

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

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

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

(d) The allocation certificate is issued in accordance with the authority’s qualified allocation plan under sub. (4).
ALLOCATION PLAN. The authority shall develop a qualified allocation plan that sets forth selection criteria to determine housing priorities for individuals whose income is at least 61 percent but not more 100 percent of area median gross income. The housing priorities shall be appropriate for local conditions. The selection criteria shall include project location, housing needs characteristics, project characteristics, sponsor characteristics, tenant populations with special housing needs, tenant populations of individuals with children, projects intended for eventual tenant ownership, the energy efficiency of the project, and the historic nature of the project. The plan shall include procedures to monitor noncompliance with this section and with habitability standards.

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

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

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

(a) A description of each qualified housing development for which the authority issued an allocation certificate that year, including the development’s geographic location, the household type and any specific demographic information available
concerning the residents intended to be served by the development, the income levels
of residents intended to be served by the development, and the rents or set-asides
authorized for the development.

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

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

(END)