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CHAPTER 371

1981 Assembly Bill 858

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CHAPTER 371 , Laws of 1981

AN ACT to amend 71.02 (2) (f) and 71.60 (1) (a) (intro.); and to create 20.442, 71.04 (5m), 71.09 (12m) and chapter 233 of the statutes, relating to creating the community development finance authority and making an appropriation.

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

SECTION 1. 20.005 (2) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	1981-82	1982-83
<b>20.442 Community development finance authority</b>		
(1) COMMUNITY DEVELOPMENT ASSISTANCE		
(a) General program operations	GPR A	
	-0-	100,000

SECTION 2. 20.442 of the statutes is created to read:

**20.442 Community development finance authority.** There is appropriated to the community development finance authority for the following programs:

(1) COMMUNITY DEVELOPMENT ASSISTANCE. (a) *General program operations.* The amounts in the schedule for general program operations under ch. 233.

SECTION 3. 71.02 (2) (f) of the statutes is amended to read:

71.02 (2) (f) "Itemized deductions" means deductions from federal adjusted gross income allowable under the internal revenue code in determining federal taxable income, other than the federal standard deduction, low-income allowance and deductions for personal exemptions; but with respect to nonresident natural persons deriving income from property located, business transacted or personal or professional services performed in this state, including natural persons changing their domicile into or from this state in the calendar year 1972 or corresponding fiscal year or thereafter, "itemized deductions" are limited to such fraction of the amount so determined as Wisconsin adjusted gross income is of federal adjusted gross income, except that for married persons "itemized deductions" are limited to such fraction of the amount so determined as combined Wisconsin adjusted gross income is of combined or joint federal adjusted gross income. In addition, for taxable year 1979 and thereafter, "itemized deductions" excludes deductions for taxes allowable under section 164 of the internal revenue code. In addition, "itemized deductions" includes contributions to the community development finance authority under s. 233.03, minus any credit received under s. 71.09 (12m).

SECTION 4. 71.04 (5m) of the statutes is created to read:

71.04 (5m) Contributions to the community development finance authority under s. 233.03, minus any credit received under s. 71.09 (12m).

SECTION 5. 71.09 (12m) of the statutes is created to read:

71.09 (12m) (a) Any corporation or individual who contributes an amount to the community development finance authority under s. 233.03 and, in the same year purchases common stock or partnership interests of the community development finance company issued under s. 233.05 (2) in an amount no greater than the contribution to the authority, may credit against taxes otherwise due an amount equal to 75% of the

purchase price of the stock or partnership interests. The credit received under this paragraph may not exceed 75% of the contribution to the community development finance authority.

(b) Any corporation or individual receiving a credit under this subsection may carry forward to succeeding taxable years the amount of the credit not offset against taxes for the year of purchase.

SECTION 5m. 71.60 (1) (a) (intro.) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

71.60 (1) (a) (intro.) "Adjusted itemized deductions" means the amount by which the sum of the taxpayer's Wisconsin itemized deductions for the taxable year, other than deductions allowable under sections 165 (c) (3) and 213 of the internal revenue code or contributions to the community development finance authority allowable as deductions under s. 71.02 (2) (f) or 71.04 (5m), exceeds 60%, but does not exceed 100%, of the taxpayer's Wisconsin adjusted gross income for the taxable year. For married persons, "adjusted itemized deductions" of each spouse shall be determined as follows:

SECTION 6. Chapter 233 of the statutes is created to read:

#### CHAPTER 233

#### COMMUNITY DEVELOPMENT FINANCE AUTHORITY

**233.01 Purpose.** The legislature finds that blighted or impoverished areas and areas of underemployment exist in parts of the state and that each area is inimical to the safety, health, morals and welfare of the residents of the area and of the state, decreases the value of private investments and threatens the sources of public revenue. Because of the economic and social interdependence of communities, the economic and industrial development of all municipalities of the state are substantially impaired. The development or redevelopment of these blighted or impoverished areas and of these areas of underemployment requires the stimulation of private investment in those areas. Industries located in this state have been induced to move or cease their operations with a resulting loss of primary employment and increased unemployment. Economic insecurity due to loss of primary employment is a serious menace to the general welfare of not only the people of the affected areas but of the people of the entire state. Unemployment results in obligations to grant public assistance and in the payment of unemployment compensation. The absence of primary employment opportunities has caused workers and their families to migrate elsewhere to find work and establish homes, which has resulted in a reduction of the tax base of municipalities that impairs their financial ability to support education and other local governmental services. The menace of these areas is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in this chapter. Increasing the number of development projects in blighted or impoverished areas, and areas where primary employment is threatened, providing capital to business ventures within these areas and stimulating private investment in these areas are public uses and purposes for which public money may be expended and invested.

**233.02 Definitions.** In this chapter:

- (1) "Authority" means the community development finance authority.
- (2) "Capital participation instrument" means:
  - (a) Any of the following or an option or other right to acquire any of the following:
    1. Common or preferred capital stock.
    2. Convertible securities.
    3. Evidences of long-term or short-term indebtedness.
    4. Warrants.
    5. Subscriptions.

(b) Royalties or other lawful derivations of a capital participation instrument listed under par. (a).

(3) "Community development corporation" means:

(a) Any Native American tribal governing body or any business created by the governing body.

(b) A nonprofit corporation organized under ch. 181 that:

1. Is organized to operate within specific geographic boundaries;
2. Permits all adults residing in the area of operation to become members of the corporation and limits voting membership of persons not residing in the area to not more than 10% of the total membership;
3. Imposes an annual individual membership fee of not less than \$1 nor more than \$10;
4. Has a board of directors:
  - a. A majority of whom reside in a target area or are members of a target group; and
  - b. Two-thirds of whom are either elected by the membership, with each member having an equal vote, or appointed by organizations that meet the requirements of subds. 1 to 3 and have boards of directors that meet the requirements of subd. 4. a and are elected under this subparagraph;
5. Holds elections each year for at least one-fifth of the elected members of the board of directors with the elected members serving staggered terms of not more than 5 years (except a member of the board of directors may be reelected);
6. a. Has a paid membership of not less than 25 persons or of not less than 0.25 % of the residents of the area of operation, whichever is greater.
  - b. Notwithstanding subd. 6. a, this subdivision does not require a paid membership of more than 350 persons; and
7. Makes a demonstrable effort to hire low-income or underemployed residents of the operating area.

(c) A nonprofit corporation organized under ch. 181 before January 1, 1982:

1. Whose primary purpose is employing members of a target group through projects that meet the conditions specified in s. 233.06 (1) (a) to (d);
2. That meets the conditions specified in par. (b) 1 and 2;
3. That demonstrates a commitment to involving residents of target areas or members of target groups in projects; and
4. That petitions the authority for designation as a community development corporation on or before 60 days after the date all the members of the authority are appointed under s. 233.03 (1).

(4) "Community development finance company" means a corporation or a limited partnership organized for profit under s. 233.05.

(5) "Cost of a project" means costs associated with the design, planning and implementation of a project that, in accordance with sound business and financial practices, are appropriate charges to the project. The costs may include, but are not limited to, the costs of planning and design, options to buy land, feasibility or other studies, seed money, construction, working capital and any other costs determined by the company to be necessary to the purposes of this chapter.

(6) "Low income" means an annual income below the income level established by the U.S. community services administration in 45 CFR 1060.2-2.

(7) "Primary employment" means work which pays at least 1.5 times the minimum wage as established under ch. 104 or under federal law, whichever is greater, offers adequate fringe benefits, including health insurance, and is not seasonal or part time.

(8) "Project" means a commercial, industrial or real estate business or other economic activity designed to create or preserve jobs for low-income people, or to reduce conditions of blight or impoverishment in a target area or of a target group.

(9) "Target area" means a contiguous geographic area in which 50% or more of the households have income that is less than 80% of the statewide median household income.

(10) "Target group" means a population group for which the unemployment level is at least 25% higher than the statewide unemployment level, or a population group for which the average wage received is less than 1.2 times the minimum wage as established under ch. 104 or under federal law, whichever is greater. No population group is required to be located within a contiguous geographic area to be considered a target group.

**233.03 Community development finance authority.** (1) In order to accomplish the governmental purposes under s. 233.01, there is created a public body corporate and politic to be known as the "community development finance authority". The authority shall be a nonprofit corporation organized under ch. 181. The governor shall nominate, and with the advice and consent of the senate appoint, 11 people to the authority to act as the corporation's board of directors. The board of directors shall consist of the secretary of the department of development or a designee and 10 public members. Four public members of the board shall represent community development corporations, one public member shall represent organized labor, one public member shall represent small business, one public member shall represent employment training programs, one public member shall represent private financial institutions, the senate shall select one public member and the assembly shall select one public member. The public members shall be appointed for staggered 5-year terms. All members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in performing their duties. Each member may hold office until a successor is appointed.

(1m) The governor shall appoint an executive director of the authority to serve a 2-year term. Notwithstanding the fact that the executive director is unclassified, the executive director is subject to s. 230.40. The executive director's compensation may not exceed the maximum of the executive salary group range established under s. 20.923 (1) for positions assigned to executive salary group 3.

(2) The board of directors holds the powers of the authority. A majority of the directors is a quorum that may exercise these powers upon a vote of a majority of the directors present, unless the authority's bylaws specify a larger number of persons.

(3) The authority shall elect a chairperson and vice chairperson. The authority shall employ legal, financial and technical experts and other persons as it may require. The authority shall determine the qualifications, duties and compensation of the employes, notwithstanding subch. II of ch. 230 except that s. 230.40 applies, and except that the compensation of any employe of the authority may not exceed the maximum of the executive salary group range established under s. 20.923 (1) for positions assigned to executive salary group 3.

**233.04 Powers and duties of the authority.** (1) The authority has all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter. The authority may:

(a) Adopt bylaws and rules for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter it at pleasure.

(c) Maintain an office.

(d) Sue and be sued in its own name, plead and be impleaded.

(e) Accept from any source loans, contributions or grants to aid the authority in the conduct of its affairs.

(f) Execute contracts and any other instruments necessary to exercise its powers and functions.

(g) Acquire real estate by purchase or foreclosure if the acquisition is necessary or appropriate to protect or secure any investment in which the authority has an interest, or convey any of the real estate to a buyer. If the authority is unable to convey the real estate with reasonable promptness or at a reasonable price, the board may lease the property to a tenant.

(h) Sell common stock or partnership interests purchased from the community development finance company under s. 233.05.

(i) Issue grants to finance operating or other costs of community development corporations under s. 233.07.

(2) The authority shall:

(a) Create a community development finance company under s. 233.05 and purchase a majority of the voting stock or partnership interests of the community development finance company.

(b) Provide technical assistance to community development corporations.

(c) Use any funds received from the sale of community development finance company stock or partnership interests to purchase additional stock or partnership interests.

(d) Repay the amount appropriated under s. 20.442 (1) (a) to the general fund from that portion of the authority's surplus, if any, as the authority and the secretary of the department of administration agree upon.

**233.05 Community development finance company.** (1) The authority shall create a community development finance company as a corporation organized for profit under ch. 180 or as a limited partnership organized under ch. 179. The chairperson of the authority is a director of the community development finance company. The shareholders of the community development finance company shall elect 4 other people to the company's board of directors. To the extent practicable, 3 people elected to the board of directors shall have substantial business and financial experience and one person shall represent a community development corporation. If the community development finance company is organized as a limited partnership its general partner shall, to the extent practicable, have substantial business and financial experience.

(2) The community development finance company shall issue common stock or partnership interests for purchase by the authority and by private investors. The community development finance company shall invest funds it receives from the sale of stock or partnership interests by purchasing capital participation instruments under s. 233.06.

**233.06 Community development project participation.** (1) The community development finance company may purchase a capital participation instrument through a community development corporation, on application by a community development corporation for a specific project, if the community development finance company makes a finding in writing that the project meets all of the following conditions:

(a) The project shall be located in a target area and be reasonably expected to contribute to the redevelopment and economic well-being of a target area or target group, other than by increasing or maintaining employment that is not primary employment, or be reasonably expected to increase or maintain threatened primary employment.

(b) The project plans conform to all applicable environmental, zoning, building, planning or sanitation laws.

(c) The project will be of public benefit and for a public purpose and, if the purpose is other than to maintain primary employment, the benefit of the project, including increasing primary employment and the provision of capital, will primarily accrue to a target area or target group.

- (d) There is a reasonable expectation that the project will be successful.
- (e) Private industry has not provided sufficient capital required for the project or sufficient employment opportunities in the project's area.
- (f) The purchase is necessary to the successful completion of the proposed project because funding for the project is unavailable in the traditional capital markets, or because credit has been offered on terms that would preclude the success of the project.
- (g) Provision has been made by contract for adequate reporting of financial data by the project to the community development finance company. Those provisions may include a requirement for an annual or other periodic audit of the project's financial records.
- (h) The community development finance company will not own more than 49 % of the voting stock in any enterprise as a result of the purchase.
- (i) The proceeds of the purchase will be used solely in connection with the costs of the project.
- (j) The community development corporation will maintain sufficient control over the project to ensure that public benefit and public purposes are maintained. Control over the project is sufficient if:
  1. The project is conducted by a subsidiary which is completely owned by the community development corporation;
  2. The community development corporation owns a majority of the voting stock of the corporation conducting the project; or
  3. Binding commitments have been made for reporting to the community development corporation so that the community development corporation retains sufficient control to ensure that benefits under par. (c) will accrue to the intended beneficiaries.
- (k) Provision has been made by contract to provide that if the community development finance company desires to dispose of the capital participation instrument, other than through a public offering made in compliance with applicable federal securities law, the community development corporation or its nominee may, within 90 days after receiving notice of the proposed disposition, purchase the capital participation instrument at the price and on the terms specified in the notice. The contract shall provide that the community development finance company may dispose of the capital participation instrument only for terms not more favorable than specified in the notice and only after the community development corporation notifies the authority that it will not purchase on or after the expiration of the 90-day period. The community development finance company may include a provision permitting it to extend the period during which the community development corporation may exercise its option by not more than 90 days.
- (L) The community development corporation is able to manage its project responsibilities.
- (m) The total investment by the community development finance company in any one community development corporation will not exceed 20 % of the total amount of its investable funds in community development corporations.
- (n) The bylaws of the community development corporation require it to hold a public hearing on the desirability of the project as close as practical to the proposed project site and prior to commencing the project and to record the names and addresses of all persons appearing for or against the project, if 25 % of the membership of the community development corporation or an equal number of adult members of the target group or adults residing in the target area of the project, if any, sign a petition so requesting and file the petition with the community development corporation.
- (p) The project will not result in a substantial increase in unemployment in the area of original location of any business or establishment relocated as part of the project.

(2) The findings made by the community development finance company under this section are conclusive.

**233.07 Grants to community development corporations.** (1) The authority shall provide technical assistance to community development corporations and to persons who are forming community development corporations.

(2) The authority may award grants to community development corporations to fund their operating costs or other costs of projects including, but not limited to, costs incurred for planning, feasibility or other studies, consultants or technical assistance or educational or publicity programs. The authority shall award the grants to further the purposes of this chapter. The authority shall review applications for grants based upon need, effectiveness in encouraging the development of community development corporations, effectiveness in assisting in the attainment of capital for the development of the operating area of the community development corporation and based upon the extent to which the grant will encourage the exchange of information among community development corporations and between community development corporations and other community organizations.

**SECTION 7. Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

<b>A</b>	<b>B</b>	<b>C</b>
Statute Sections	Old Cross-References	New Cross-References
71.09 (13)(a)	sub. (7), (11) or (12)	sub. (7), (11), (12) or (12m)
71.09 (13)(b)	sub. (7), (11) or (12)	sub. (7), (11), (12) or (12m)
71.09 (13)(d)	sub. (7), (11) or (12)	sub. (7), (11), (12) or (12m)

**SECTION 8. Effective dates.** (1) Except as further provided in this section, this act takes effect on the day following publication.

(2) The treatment of sections 71.02 (2) (f), 71.04 (5m) and 71.09 (12m) of the statutes by this act takes effect on July 1, 1982.

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