

1989 Senate Bill 369

Date of enactment: **April 27, 1990**
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1989 WISCONSIN ACT 346

AN ACT to repeal 234.49 (1) (d) 1, 3 and 5; to renumber and amend 234.07; to amend 234.165 (2) (b) 1 to 3, 234.59 (1) (d) 2 and 234.59 (3) (b) 1. a; and to create 234.07 (2), 234.59 (1) (k) and 234.59 (3) (b) 1. c of the statutes, relating to: revising certain requirements in loan programs administered by the Wisconsin housing and economic development authority, modifying permissible profit distributions by limited-profit entities and revising the authority's surplus reporting procedures.

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

SECTION 1. 234.07 of the statutes is renumbered 234.07 (1) and amended to read:

234.07 (1) A Except as provided in sub. (2), a limited-profit entity which receives loans from the authority may not make distributions, other than from funds contributed to the limited-profit entity by stockholders, partners, members or holders of beneficial interest in the limited-profit entity, in any one year with respect to a project financed by the authority in excess of 6% of its equity in such project on a cumulative basis. The equity in a project shall consist of the difference between the amount of the mortgage loan and the total project cost. Total project cost shall include construction or rehabilitation costs including job overhead and a builder's and sponsor's profit and risk fee, architectural, engineering, legal and accounting costs, organizational expenses, land value, interest and financing charges paid during construction, the cost of landscaping and off-site improvements, whether or not such costs have been paid in cash or in a form other than cash. With respect to every project the authority shall, pursuant to rules adopted by it, establish the entity's equity at the time of making of the final mortgage advance and, for purposes of this section, that figure shall remain constant during the life of the authority's loan with respect to such project. Upon the dissolution of the limited-profit entity any surplus in excess of the

distributions allowed by this section shall be paid to the authority. For this purpose surplus shall not be deemed to include any increase in net worth of any limited-profit entity by reason of a reduction of mortgage indebtedness, by amortization or similar payments or by reason of the sale or disposition of any assets of a limited-profit entity to the extent such surplus can be attributed to any increase in market value of any real or tangible personal property accruing during the period the assets were owned and held by the limited-profit entity.

SECTION 2. 234.07 (2) of the statutes is created to read:

234.07 (2) If a limited-profit entity agrees to provide housing for low-income and moderate-income persons until the end of the maximum term of a mortgage that the limited-profit entity gives the authority, a limited-profit entity that receives a loan from the authority may not make distributions, other than from funds contributed to the limited-profit entity by stockholders, partners, members or holders of a beneficial interest in the limited-profit entity, in any one year with respect to a project financed by the authority in excess of 12% of its equity in the project on a cumulative basis.

SECTION 3. 234.165 (2) (b) 1. to 3. of the statutes are amended to read:

234.165 (2) (b) 1. ~~On or before April 30~~ Before August 31 the chairperson of the authority shall certify to the secretary of administration actual and projected surplus available for the following fiscal year.

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2. ~~On or before May 31~~ Before August 31 the authority shall submit to the governor a plan for expending or encumbering the surplus. The part of the plan related to housing shall be consistent with the state housing plan under s. 560.115, 1983 stats. The surplus certification under subd. 1 and the plan under this subdivision may be included in one report.

3. ~~The~~ Within 30 days after receiving the plan under subd. 2, the governor may modify the plan and shall submit the plan as modified to the presiding officer of each house of the legislature, who shall refer the plan to appropriate standing committees within 7 days, exclusive of Saturdays, Sundays and legal holidays.

SECTION 4. 234.49 (1) (d) 1., 3. and 5. of the statutes are repealed.

SECTION 4m. 234.59 (1) (d) 2. of the statutes is amended to read:

234.59 (1) (d) 2. A residential structure having no more than ~~2~~ 4 dwelling units, if one of the units is or will be the principal residence of an applicant and the structure is an existing dwelling first occupied at least 5 years before execution of a homeownership mortgage loan secured by the dwelling.

SECTION 4s. 234.59 (1) (k) of the statutes is created to read:

234.59 (1) (k) “Targeted area residence” has the meaning given in 26 CFR 6a.103A–2 (b) (3).

SECTION 5. 234.59 (3) (b) 1. a of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

234.59 (3) (b) 1. a. ~~A~~ Except as provided in subd. 1. c, a homeownership mortgage loan may not be made to ~~any an~~ applicant whose ~~if the applicant’s~~ income combined, except as provided in subd. 1. b, with the income from all sources of all persons who intend to occupy the same dwelling unit as that applicant, exceeds 110% of the median income of the county where the eligible property for which the applicant seeks a loan is located ~~if the eligible property is not a targeted area residence or exceeds 140% of the median income of the county where the eligible property is located if the eligible property is a targeted area residence.~~

SECTION 5m. 234.59 (3) (b) 1. c. of the statutes is created to read:

234.59 (3) (b) 1. c. If the authority sets aside at least 20% of the proceeds of a bond or note issuance under s. 234.60 to fund homeownership mortgage loans for eligible properties that are targeted area residences, the authority may apply up to 33% of the proceeds that are set aside for that purpose without regard to the income of the applicant.

SECTION 6. Initial applicability. The treatment of section 234.07 of the statutes and the creation of section 234.07 (2) of the statutes first apply to distributions made by a limited–profit entity on the effective date of this SECTION.