

State of Wisconsin



2021 Senate Bill 692

Date of enactment: **March 11, 2022**

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2021 WISCONSIN ACT 175

AN ACT *to repeal* 66.0627 (8) (e); *to renumber and amend* 66.0627 (8) (a) and 66.0627 (8) (d); *to amend* 66.0627 (1) (ad) (intro.), 66.0627 (1) (am), 66.0627 (1) (d), 66.0627 (8) (am), 66.0627 (8) (b) and 66.0627 (8) (c); and *to create* 66.0627 (1) (ao), 66.0627 (1) (bk), 66.0627 (1) (bm), 66.0627 (1) (cg), 66.0627 (8) (a) 1. d., 66.0627 (8) (a) 1. e., 66.0627 (8) (a) 1. f., 66.0627 (8) (a) 2., 66.0627 (8) (cm), 66.0627 (8) (d) 2. and 66.0627 (8) (f) of the statutes; **relating to:** loans and repayment assistance by a political subdivision for certain improvements to properties and collection of the debt by special charge.

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

SECTION 1. 66.0627 (1) (ad) (intro.) of the statutes is amended to read:

66.0627 (1) (ad) (intro.) “Brownfield revitalization project” means any of the following actions when taken upon ~~commercial or industrial~~ premises that are located on, or that constitute, brownfields, as defined in s. 238.13 (1) (a):

SECTION 2. 66.0627 (1) (am) of the statutes is amended to read:

66.0627 (1) (am) “Energy efficiency or reliability improvement” means an improvement to a ~~residential, commercial, or industrial~~ premises that reduces the usage of energy, or increases the efficiency or reliability of energy usage, at the premises, including energy storage or backup power generation improvements or improvements that facilitate participation in a microgrid.

SECTION 3. 66.0627 (1) (ao) of the statutes is created to read:

66.0627 (1) (ao) “EV infrastructure improvement” means an improvement to a premises to provide facilities

for charging vehicles that are fully or partially powered by electricity.

SECTION 4. 66.0627 (1) (bk) of the statutes is created to read:

66.0627 (1) (bk) “Renewable resource application” means any of the following:

1. An improvement to a premises that allows for the production of energy through the incorporation of solar thermal electric or photovoltaic energy.

2. An improvement to a premises that allows for the small scale derivation of electricity from a renewable resource listed under s. 196.378 (1) (h).

3. A manure digestion or other biomass system that produces natural gas.

SECTION 5. 66.0627 (1) (bm) of the statutes is created to read:

66.0627 (1) (bm) “Resiliency improvement” means an improvement to a premises intended to increase resilience or improve the durability of infrastructure, including an improvement intended to improve storm and wind durability or wind resistance or to assist in fire suppression or mitigation of damage from flooding.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

SECTION 6. 66.0627 (1) (cg) of the statutes is created to read:

66.0627 (1) (cg) “Storm water control measure” means an improvement to a premises that uses structural or nonstructural measures, practices, techniques, or devices designed to mitigate the negative impacts of storm water runoff or other surface runoff to the premises, including an infiltration system, wet detention pond, constructed wetland, grassed swale, or vegetative roofing system. “Storm water control measure” does not include a rain barrel or cistern designed for temporary storage of precipitation.

SECTION 7. 66.0627 (1) (d) of the statutes is amended to read:

66.0627 (1) (d) “Water efficiency improvement” means an improvement to a residential, commercial, or industrial premises that reduces the usage of water, or increases the efficiency of water usage, at the premises.

SECTION 8. 66.0627 (8) (a) of the statutes is renumbered 66.0627 (8) (a) 1. (intro.) and amended to read:

66.0627 (8) (a) 1. (intro.) ~~Except as provided in subd. 2.,~~ a political subdivision may make a loan, or enter into an agreement regarding loan repayments to a 3rd party for owner-arranged or lessee-arranged financing, to an owner or lessee of a premises that is a residential property containing at least 5 dwelling units or a nonresidential property and that is located in the political subdivision for a brownfield revitalization project or for the financing or refinancing of a project for making or installing an, operating, or maintaining any of the following with regard to the premises:

a. An energy efficiency or reliability improvement;

b. A water efficiency improvement, or a

c. A renewable resource application to the premises.

SECTION 8c. 66.0627 (8) (a) 1. d. of the statutes is created to read:

66.0627 (8) (a) 1. d. An EV infrastructure improvement.

SECTION 8e. 66.0627 (8) (a) 1. e. of the statutes is created to read:

66.0627 (8) (a) 1. e. A resiliency improvement.

SECTION 8g. 66.0627 (8) (a) 1. f. of the statutes is created to read:

66.0627 (8) (a) 1. f. A storm water control measure.

SECTION 9. 66.0627 (8) (a) 2. of the statutes is created to read:

66.0627 (8) (a) 2. A political subdivision may not make a loan or enter into an agreement under subd. 1. for the financing or refinancing of a project for making, installing, operating, or maintaining a resiliency improvement for a premises to which a floodplain zoning ordinance applies unless all of the following apply:

a. If the premises is a nonconforming building, as defined in s. 87.30 (1d) (a) 1., the building would be permanently repaired, reconstructed, or improved so as to

comply with all applicable requirements of the floodplain zoning ordinance for the area of the floodplain that it occupies after completion of the resiliency improvement.

b. If the political subdivision participates in the National Flood Insurance Program, the owner or lessee of the premises agrees to maintain any flood insurance policy required under the program for the premises.

SECTION 10. 66.0627 (8) (am) of the statutes is amended to read:

66.0627 (8) (am) If a political subdivision makes a loan or enters into an agreement under par. (a) 1. or (ag), the political subdivision may collect the loan repayment amounts due under the loan or agreement as a special charge under this section. Notwithstanding sub. (4), a special charge imposed under this paragraph may be collected in installments and may be included in the current or next tax roll for collection and settlement under ch. 74 even if the special charge is not delinquent. If a political subdivision makes a loan, or enters into an agreement regarding loan repayments to a 3rd party, for a brownfield revitalization project under par. (a), the repayment period may not exceed 20 30 years.

SECTION 10m. 66.0627 (8) (b) of the statutes is amended to read:

66.0627 (8) (b) A political subdivision that imposes a special charge under par. (am) may permit special charge installments to be collected by a 3rd party that has provided financing for the improvement or application project under par. (a) 1. and may require that the 3rd party inform the political subdivision if a special charge installment is delinquent.

SECTION 11. 66.0627 (8) (c) of the statutes is amended to read:

66.0627 (8) (c) An installment payment authorized under par. (am) that is delinquent becomes a lien on the property that benefits from the improvement or application project under par. (a) 1. or (ag) as of the date of delinquency. A lien under this paragraph runs with the land and has the same priority as a special assessment lien.

SECTION 12. 66.0627 (8) (cm) of the statutes is created to read:

66.0627 (8) (cm) 1. If an installment payment authorized under par. (am) is delinquent, a lien under par. (c) may be enforced by foreclosure under s. 75.521.

2. The governing body of a county may assign the county’s right to take judgment with respect to any parcel that is subject to subd. 1. to a 3rd party that is party to a loan repayment agreement under par. (a) 1. or (ag). An assignment under this subdivision shall be in accordance with s. 75.106, except that s. 75.106 (1) and (2) (d), (e), and (f) do not apply.

SECTION 13. 66.0627 (8) (d) of the statutes is renumbered 66.0627 (8) (d) (intro.) and amended to read:

66.0627 (8) (d) (intro.) A political subdivision that, under par. (a) 1., makes a loan to, or enters an agreement

with, an owner or lessee for making or installing an improvement or application that costs \$250,000 or more a project under par. (a) 1. shall require the owner or lessee to obtain a written guarantee from the contractor or project engineer that the improvement or application will achieve a savings-to-investment ratio of greater than 1.0 and that the contractor or engineer will annually pay the owner any shortfall in savings below this level. The political subdivision may determine the method by which a guarantee under this paragraph is enforced do all of the following:

- 1. For an energy efficiency or reliability improvement or water efficiency improvement, obtain a 3rd-party assessment of the baseline water or energy use of the owner or lessee's property and an assessment of the expected monetary savings due to the improvement or, for a renewable resource application, obtain an assessment of the renewable energy production of the application and the expected monetary benefit to be generated by the application. This paragraph subdivision does not apply to a loan or agreement for a brownfield revitalization project, a customer-side water service line replacement, an EV infrastructure improvement, a resiliency

improvement, or a storm water control measure.

SECTION 14. 66.0627 (8) (d) 2. of the statutes is created to read:

66.0627 (8) (d) 2. After the project under par. (a) 1. is complete, provide a verification that the project was properly made, installed, or maintained or, for a loan or agreement solely for the operation of a project, that at the time the loan is made or the agreement entered into the project was in proper operational condition.

SECTION 15. 66.0627 (8) (e) of the statutes is repealed.

SECTION 16. 66.0627 (8) (f) of the statutes is created to read:

66.0627 (8) (f) A political subdivision shall require that the owner or lessee obtain the written consent of all holders of a mortgage of record on the premises as a condition of making a loan or entering into an agreement under par. (a) 1.

SECTION 17. Initial applicability.

(1) This act first applies to an application made to a political subdivision for a loan or an agreement regarding loan repayment to a 3rd party on the effective date of this subsection.