



**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 172**

May 10, 2021 - Offered by Senator BERNIER.

1 **AN ACT** *to renumber* 76.639 (3); *to amend* 71.05 (6) (a) 15., 71.21 (4) (a), 71.26
2 (2) (a) 4., 71.34 (1k) (g), 71.45 (2) (a) 10. and 76.67 (2); and *to create* 71.07 (8f),
3 71.10 (4) (fd), 71.28 (8f), 71.30 (3) (cu), 71.47 (8f), 71.49 (1) (cu), 76.639 (3) (b),
4 76.6395 and 234.46 of the statutes; **relating to:** state workforce housing
5 income and franchise tax credit.

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 15 years.

4. The tax credit certification is issued in accordance with a qualified allocation plan established by WHEDA.

The bill requires that WHEDA allocate at least 50 percent of the annual credit allocation to qualified housing developments located in cities, villages, and towns with fewer than 150,000 residents. The bill caps at \$42,000,000 the total 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each year by an amount equal to all unallocated credits from prior years, all previously allocated credits that have been revoked, canceled, or otherwise recovered by WHEDA, and credits allocated for qualified housing developments in small municipalities that were not claimed.

The bill also amends the existing low-income housing tax credit that insurers may claim against certain state-imposed fees. The bill provides that 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 low-income housing tax credit in proportion to the insurer's interest or in accordance with the allocation of credits pursuant to a timely written agreement among the partners or members.

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

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. Except as provided under s. 71.07 (3p) (c) 5., the amount of the
3 credits computed under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t),
4 (3w), (3wm), (3y), (4k), (4n), (5e), (5i), (5j), (5k), (5r), (5rm), (6n), (8f), and (10) and not
5 passed through by a partnership, limited liability company, or tax-option
6 corporation that has added that amount to the partnership's, company's, or
7 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

9 71.07 **(8f)** STATE WORKFORCE HOUSING CREDIT. (a) *Definitions.* In this subsection:

10 1. "Allocation certificate" means a statement issued by the authority certifying
11 that a qualified housing development is eligible for a credit under this subsection and

1 specifying the amount of the credit that the owners of the development may claim
2 for each taxable year of the credit period.

3 2. “Area median gross income” has the meaning as used for purposes of 26 USC
4 42.

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

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

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

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

16 7. “Qualified basis” means the amount equal to the applicable fraction of the
17 adjusted basis of the qualified housing development as of the close of the first taxable
18 year of the credit period. The applicable fraction is the smaller of a fraction whose
19 numerator is the number of qualified units in the qualified housing development and
20 denominator is the total number of residential rental units in the qualified housing
21 development or a fraction whose numerator is the total floor space of the qualified
22 units in the qualified housing development and denominator is the total floor space
23 of all the residential rental units in the qualified housing development. In
24 calculating the applicable fraction, the number of qualified units and residential

1 rental units and the amount of floor space shall be determined as of the close of the
2 taxable year.

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

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

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

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

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

22 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
23 claimant includes with the claimant’s return a copy of the allocation certificate
24 issued for the qualified housing development.

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

20 3. No credit may be claimed under this subsection for the same costs for which
21 a credit is claimed under sub. (8b), (9m), or (9r) or s. 71.28 (6) or (8b), 71.47 (6) or (8b),
22 or 76.639.

23 (d) *Recapture*. 1. As of the last day of any taxable year during the compliance
24 period, if the qualified basis of a qualified housing development with respect to a
25 claimant is less than the qualified basis as of the last day of the previous taxable year,

1 the amount of the claimant's tax liability under this subchapter shall be increased
2 by an amount equal to the excess of the aggregate credit claimed under this
3 subsection in prior taxable years over the aggregate credit that would be claimed in
4 those years if the full credit amount allocated to the claimant for the credit period
5 was claimed ratably over 10 years.

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

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

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

17 **SECTION 3.** 71.10 (4) (fd) of the statutes is created to read:

18 71.10 (4) (fd) State workforce housing credit under s. 71.07 (8f).

19 **SECTION 4.** 71.21 (4) (a) of the statutes is amended to read:

20 71.21 (4) (a) The amount of the credits computed by a partnership under s.
21 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n),
22 (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), ~~(8f)~~, and (10) and passed through to partners
23 shall be added to the partnership's income.

24 **SECTION 5.** 71.26 (2) (a) 4. of the statutes is amended to read:

1 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm),
2 (1dx), (1dy), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (5e), (5g), (5i), (5j), (5k), (5r),
3 (5rm), (6n), (8f), (9s), and (10) and not passed through by a partnership, limited
4 liability company, or tax-option corporation that has added that amount to the
5 partnership's, limited liability company's, or tax-option corporation's income under
6 s. 71.21 (4) or 71.34 (1k) (g).

7 **SECTION 6.** 71.28 (8f) of the statutes is created to read:

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

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

13 2. "Area median gross income" has the meaning as used for purposes of 26 USC
14 42.

15 3. "Authority" means the Wisconsin Housing and Economic Development
16 Authority.

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

19 5. "Compliance period" means the 10-year period beginning with the first
20 taxable year of the credit period.

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

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

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

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

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

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

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

6 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
7 claimant includes with the claimant's return a copy of the allocation certificate
8 issued for the qualified housing development.

9 2. A partnership, limited liability company, or tax-option corporation may not
10 claim the credit under this subsection. The partners of a partnership, members of
11 a limited liability company, or shareholders in a tax-option corporation may claim
12 the credit under this subsection based on eligible costs incurred by the partnership,
13 limited liability company, or tax-option corporation. The partnership, limited
14 liability company, or tax-option corporation shall calculate the amount of the credit
15 that may be claimed by each partner, member, or shareholder and shall provide that
16 information to each of them. Credits computed by a partnership or limited liability
17 company may be claimed in proportion to the ownership interests of the partners or
18 members or allocated to partners or members as provided in a written agreement
19 among the partners or members that is entered into no later than the last day of the
20 taxable year of the partnership or limited liability company for which the credit is
21 claimed. Any partner or member who claims the credit as allocated by a written
22 agreement shall provide a copy of the agreement with the tax return on which the
23 credit is claimed. For shareholders of a tax-option corporation, the credit may be
24 allocated in proportion to the ownership interest of each shareholder. A person
25 claiming the credit as provided under this subdivision is solely responsible for any

1 tax liability arising from a dispute with the department related to claiming the
2 credit.

3 3. No credit may be claimed under this subsection for the same costs for which
4 a credit is claimed under sub. (6) or (8b) or s. 71.07 (8b), (9m), or (9r), 71.47 (6) or (8b),
5 or 76.639.

6 (d) *Recapture*. 1. As of the last day of any taxable year during the compliance
7 period, if the qualified basis of a qualified housing development with respect to a
8 claimant is less than the qualified basis as of the last day of the previous taxable year,
9 the amount of the claimant's tax liability under this subchapter shall be increased
10 by an amount equal to the excess of the aggregate credit claimed under this
11 subsection in prior taxable years over the aggregate credit that would be claimed in
12 those years if the full credit amount allocated to the claimant for the credit period
13 was claimed ratably over 10 years.

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

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

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

25 **SECTION 7.** 71.30 (3) (cu) of the statutes is created to read:

1 71.30 (3) (cu) State workforce housing credit under s. 71.28 (8f).

2 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

3 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
4 corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3q), (3t), (3w),
5 (3wm), (3y), (4), (5), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), (8f), and (10) and passed
6 through to shareholders.

7 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

8 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
9 computed under s. 71.47 (1dm) to (1dy), (3g), (3h), (3n), (3q), (3w), (3y), (5e), (5g), (5i),
10 (5j), (5k), (5r), (5rm), (6n), (8f), (9s), and (10) and not passed through by a partnership,
11 limited liability company, or tax-option corporation that has added that amount to
12 the partnership's, limited liability company's, or tax-option corporation's income
13 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
14 (1), (3), (3t), (4), (4m), and (5).

15 **SECTION 10.** 71.47 (8f) of the statutes is created to read:

16 71.47 (8f) STATE WORKFORCE HOUSING CREDIT. (a) *Definitions.* In this subsection:

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

21 2. "Area median gross income" has the meaning as used for purposes of 26 USC
22 42.

23 3. "Authority" means the Wisconsin Housing and Economic Development
24 Authority.

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

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

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

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

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

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

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

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

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

15 (c) *Limitations.* 1. No person may claim the credit under par. (b) unless the
16 claimant includes with the claimant’s return a copy of the allocation certificate
17 issued for the qualified housing development.

18 2. A partnership, limited liability company, or tax-option corporation may not
19 claim the credit under this subsection. The partners of a partnership, members of
20 a limited liability company, or shareholders in a tax-option corporation may claim
21 the credit under this subsection based on eligible costs incurred by the partnership,
22 limited liability company, or tax-option corporation. The partnership, limited
23 liability company, or tax-option corporation shall calculate the amount of the credit
24 that may be claimed by each partner, member, or shareholder and shall provide that
25 information to each of them. Credits computed by a partnership or limited liability

1 company may be claimed in proportion to the ownership interests of the partners or
2 members or allocated to partners or members as provided in a written agreement
3 among the partners or members that is entered into no later than the last day of the
4 taxable year of the partnership or limited liability company for which the credit is
5 claimed. Any partner or member who claims the credit as allocated by a written
6 agreement shall provide a copy of the agreement with the tax return on which the
7 credit is claimed. For shareholders of a tax-option corporation, the credit may be
8 allocated in proportion to the ownership interest of each shareholder. A person
9 claiming the credit as provided under this subdivision is solely responsible for any
10 tax liability arising from a dispute with the department related to claiming the
11 credit.

12 3. No credit may be claimed under this subsection for the same costs for which
13 a credit is claimed under sub. (6) or (8b) or s. 71.07 (8b), (9m), or (9r), 71.28 (6) or (8b),
14 or 76.639.

15 (d) *Recapture.* 1. As of the last day of any taxable year during the compliance
16 period, if the qualified basis of a qualified housing development with respect to a
17 claimant is less than the qualified basis as of the last day of the previous taxable year,
18 the amount of the claimant's tax liability under this subchapter shall be increased
19 by an amount equal to the excess of the aggregate credit claimed under this
20 subsection in prior taxable years over the aggregate credit that would be claimed in
21 those years if the full credit amount allocated to the claimant for the credit period
22 was claimed ratably over 10 years.

23 2. Subdivision 1. does not apply if the reduction in qualified basis for the
24 taxable year is by reason of a casualty loss if the loss is restored by reconstruction
25 or replacement within a reasonable period; a minimal change in floor space; or a

1 disposition of an interest in the qualified housing development if it is reasonably
2 expected that the development will continue to be operated as a qualified housing
3 development for the remainder of the compliance period.

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

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

9 **SECTION 11.** 71.49 (1) (cu) of the statutes is created to read:

10 71.49 (1) (cu) State workforce housing credit under s. 71.47 (8f).

11 **SECTION 12.** 76.639 (3) of the statutes is renumbered 76.639 (3) (a).

12 **SECTION 13.** 76.639 (3) (b) of the statutes is created to read:

13 76.639 (3) (b) An insurer that is a partner or member of a partnership or limited
14 liability company that directly or indirectly owns a qualified development may claim
15 the credit under sub. (2) in proportion to the insurer's percentage of ownership
16 interest in the partnership or limited liability company or in accordance with the
17 allocation of credits to the insurer pursuant to a written agreement among the
18 partners or members of the partnership or limited liability company that is entered
19 into no later than the last day of the taxable year of the partnership or limited
20 liability company.

21 **SECTION 14.** 76.6395 of the statutes is created to read:

22 **76.6395 State workforce housing credit. (1) DEFINITIONS.** In this section:

23 (a) "Allocation certificate" means a statement issued by the authority certifying
24 that a qualified housing development is eligible for a credit under this section and

1 specifying the amount of the credit that the owners of the qualified housing
2 development may claim for each taxable year of the credit period.

3 (b) “Area median gross income” has the meaning as used for purposes of 26 USC
4 42.

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

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

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

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

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

1 rental units and the amount of floor space shall be determined as of the close of the
2 taxable year.

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

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

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

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

17 **(2) FILING CLAIMS.** Subject to the limitations provided in this section and in s.
18 234.46, for taxable years beginning after December 31, 2020, a claimant may claim
19 as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67 the
20 amount allocated to the claimant by the authority under s. 234.46 for each taxable
21 year within the credit period.

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

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

8 (c) No credit may be claimed under sub. (2) for the same costs for which a credit
9 is claimed under s. 71.07 (8b), (9m), or (9r), 71.28 (6) or (8b), 71.47 (6) or (8b), or
10 76.639.

11 **(4) RECAPTURE.** (a) As of the last day of any taxable year during the compliance
12 period, if the qualified basis of a qualified housing development with respect to a
13 claimant is less than the qualified basis as of the last day of the previous taxable year,
14 the amount of the claimant's tax liability under s. 76.60, 76.63, 76.65, 76.66, or 76.67
15 shall be increased by an amount equal to the excess of the aggregate credit claimed
16 under this section in prior taxable years over the aggregate credit that would be
17 claimed in those years if the full credit amount allocated to the claimant for the credit
18 period was claimed ratably over 10 years.

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

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

4 (5) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the
5 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
6 may be carried forward and credited against those fees for the following 15 years to
7 the extent that it is not offset by those fees otherwise due in all the years between
8 the year in which the expense was made and the year in which the carry-forward
9 credit is claimed.

10 **SECTION 15.** 76.67 (2) of the statutes is amended to read:

11 76.67 (2) If any domestic insurer is licensed to transact insurance business in
12 another state, this state may not require similar insurers domiciled in that other
13 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
14 a domestic insurer is required to pay to that other state for the same year less the
15 credits under ss. 76.635, 76.636, 76.637, 76.638, 76.639, 76.6395, and 76.655, except
16 that the amount imposed shall not be less than the total of the amounts due under
17 ss. 76.65 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375 percent of its
18 gross premiums, as calculated under s. 76.62, less offsets allowed under s. 646.51 (7)
19 or under ss. 76.635, 76.636, 76.637, 76.638, 76.639, 76.6395, and 76.655 against that
20 total, and except that the amount imposed shall not be less than the amount due
21 under s. 601.93.

22 **SECTION 16.** 234.46 of the statutes is created to read:

23 **234.46 State workforce housing tax credits.** (1) DEFINITIONS. In this
24 section:

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

5 (b) "Area median gross income" has the meaning as used for purposes of 26 USC
6 42.

7 (c) "Credit period" means the 6-year period beginning with the taxable year in
8 which a qualified housing development is placed in service. For purposes of this
9 paragraph, if a qualified housing development consists of more than one building,
10 the qualified housing development is placed in service in the taxable year in which
11 the last building is placed in service.

12 (d) "Qualified housing development" means a residential rental property
13 development located in this state if at least 25 percent of the development's
14 residential rental units are rent-restricted units and occupied by individuals whose
15 tenant income is at least 61 percent but not more than 100 percent of area median
16 gross income.

17 (e) "Qualified unit" means a rent-restricted unit that is occupied by individuals
18 whose tenant income is at least 61 percent but not more than 100 percent of area
19 median gross income.

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

24 (g) "State tax credit" means a tax credit under s. 71.07 (8f), 71.28 (8f), 71.47 (8f),
25 or 76.6395.

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

3 **(2) ESTABLISHMENT OF PROGRAM.** The authority shall establish a program to
4 certify persons to claim state tax credits, in amounts determined by the authority,
5 under this section.

6 **(3) CERTIFICATION.** The authority may certify a person to claim a state tax credit
7 by issuing the person an allocation certificate for the qualified housing development.
8 The allocation certificate shall state the amount the authority determines the person
9 is eligible to claim for each year of the credit period, the name and address of the
10 person, the person’s Wisconsin tax identification number, and any other information
11 required by the authority or the department of revenue. The authority shall provide
12 a copy of the allocation certificate to the department of revenue. The authority shall
13 issue allocation certificates annually, on a rolling basis, based on eligibility, as
14 determined by the authority, except that the authority may develop a competitive
15 process to award allocation certificates as a part of its qualified allocation plan under
16 sub. (4). The authority may issue an allocation certificate under this subsection only
17 if all of the following conditions are satisfied:

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

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

22 (c) The qualified housing development is the subject of a recorded restrictive
23 covenant requiring that, for a period of at least 15 years or for a longer period agreed
24 to by the authority and the owner of the qualified housing development, the
25 development shall be maintained and operated as a qualified housing development

1 and shall be in compliance with Title VIII of the federal Civil Rights Act of 1968, as
2 amended.

3 (d) The allocation certificate is issued in accordance with the authority's
4 qualified allocation plan under sub. (4).

5 (4) ALLOCATION PLAN. The authority shall develop a qualified allocation plan
6 that sets forth selection criteria to determine housing priorities for individuals
7 whose income is at least 61 percent but not more 100 percent of area median gross
8 income. The housing priorities shall be appropriate for local conditions. The
9 selection criteria shall include project location, housing needs characteristics,
10 project characteristics, sponsor characteristics, tenant populations with special
11 housing needs, tenant populations of individuals with children, projects intended for
12 eventual tenant ownership, the energy efficiency of the project, and the historic
13 nature of the project. The plan shall include procedures to monitor noncompliance
14 with this section and with habitability standards.

15 (5) ALLOCATION LIMITS. In any calendar year, the aggregate amount of all state
16 tax credits for which the authority certifies persons in allocation certificates issued
17 under sub. (3) in that year may not exceed \$42,000,000, including all amounts each
18 person is eligible to claim for each year of the credit period, plus the total amount of
19 all unallocated state tax credits from previous calendar years, plus the total amount
20 of all previously allocated state tax credits that have been revoked, canceled, or
21 otherwise recovered by the authority, and plus the total amount of credits allocated
22 under sub. (6) that were not claimed in the taxable year specified in the allocation
23 certificate.

24 (6) SET-ASIDE FOR SMALLER MUNICIPALITIES. In issuing allocation certificates
25 under sub. (3), the authority shall award at least 50 percent of the annual credit

1 allocation to qualified housing developments located in cities, villages, and towns
2 with a population of fewer than 150,000.

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

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

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

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

19 **(END)**