



2023 SENATE BILL 40

February 3, 2023 - Introduced by Senators FEYEN and QUINN, cosponsored by Representatives ARMSTRONG, KURTZ, ALLEN, DITTRICH, EDMING, GREEN, KITCHENS, MAGNAFICI, MURPHY, MURSAU, NOVAK, SNYDER, SPIROS, TUSLER and VANDERMEER. Referred to Committee on Housing, Rural Issues and Forestry.

1 **AN ACT to renumber** 76.639 (3); **to amend** 71.07 (8b) (e), 71.28 (8b) (e), 71.47 (8b)
2 (e), 76.639 (5), 76.67 (2), 234.45 (1) (e) and 234.45 (4); and **to create** 76.639 (3)
3 (b), 234.45 (1) (em) and 234.45 (5m) of the statutes; **relating to:** changes to the
4 low-income housing tax credit.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Housing and Economic Development Authority administers a low-income housing tax credit program. Under that program, a person may claim as a credit against the person's income or franchise tax liability, or against the person's liability for fees imposed on an insurer, the amount allocated by WHEDA in an "allocation certificate" for a qualified low-income housing project. The annual amount of tax credits WHEDA certifies under the program may not exceed \$42,000,000. The bill increases that annual cap to \$100,000,000.

The bill also requires that WHEDA, if possible, ensure that at least 35 percent of the tax credits it allocates each year under the program are for qualified low-income housing projects in rural areas in Wisconsin and removes the requirement that a qualified low-income housing project be financed with tax-exempt bonds.

Finally, the bill makes a technical change to the credit for insurers so that an insurer who is a shareholder of a tax-option corporation, a partner of a partnership, or a member of a limited liability company may claim the credit.

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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:

1 **SECTION 1.** 71.07 (8b) (e) of the statutes is amended to read:

2 71.07 **(8b)** (e) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the
3 credit under s. 71.28 (4), applies to the credit under this subsection. In addition, if
4 a credit computed under this subsection is not entirely offset against Wisconsin
5 income or franchise taxes otherwise due, the unused balance may be carried back
6 and credited against Wisconsin income or franchise taxes otherwise due for the
7 previous taxable year.

8 **SECTION 2.** 71.28 (8b) (e) of the statutes is amended to read:

9 71.28 **(8b)** (e) *Administration.* Subsection (4) (e) to (h), as it applies to the credit
10 under sub. (4), applies to the credit under this subsection. In addition, if a credit
11 computed under this subsection is not entirely offset against Wisconsin income or
12 franchise taxes otherwise due, the unused balance may be carried back and credited
13 against Wisconsin income or franchise taxes otherwise due for the previous taxable
14 year.

15 **SECTION 3.** 71.47 (8b) (e) of the statutes is amended to read:

16 71.47 **(8b)** (e) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the
17 credit under s. 71.28 (4), applies to the credit under this subsection. In addition, if
18 a credit computed under this subsection is not entirely offset against Wisconsin
19 income or franchise taxes otherwise due, the unused balance may be carried back
20 and credited against Wisconsin income or franchise taxes otherwise due for the
21 previous taxable year.

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1 **SECTION 4.** 76.639 (3) of the statutes is renumbered 76.639 (3) (a).

2 **SECTION 5.** 76.639 (3) (b) of the statutes is created to read:

3 76.639 (3) (b) A partnership, limited liability company, or tax-option
4 corporation may not claim the credit under this section. An insurer, if a partner of
5 a partnership, member of a limited liability company, or shareholder in a tax-option
6 corporation, may claim the credit under this section based on eligible costs incurred
7 by the partnership, limited liability company, or tax-option corporation. The
8 partnership, limited liability company, or tax-option corporation shall calculate the
9 amount of the credit that may be claimed by the insurer as a partner, member, or
10 shareholder and shall provide that information to the insurer. If an insurer is a
11 shareholder of a tax-option corporation, the credit may be allocated in proportion to
12 its ownership interest as a shareholder. If an insurer is a partner of a partnership
13 or member of a limited liability company, credits may be claimed in proportion to the
14 insurer's ownership interest or allocated to the insurer as provided in a written
15 agreement among the partners or members that is entered into no later than the last
16 day of the taxable year of the partnership or limited liability company for which the
17 credit is claimed. Any insurer who claims the credit as allocated by a written
18 agreement shall provide a copy of the agreement with the tax return on which the
19 credit is claimed.

20 **SECTION 6.** 76.639 (5) of the statutes is amended to read:

21 76.639 (5) ~~CARRY-FORWARD; CARRY-BACK~~. If the credit under sub. (2) is not
22 entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise
23 due, the unused balance may be carried forward and credited against those fees for
24 the following 15 years to the extent that it is not offset by those fees otherwise due
25 in all the years between the year in which the expense was made and the year in

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1 which the carry-forward credit is claimed. In addition, if a credit computed under
2 sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or
3 76.67 otherwise due, the unused balance may be carried back and credited against
4 the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due for the previous
5 taxable year.

6 **SECTION 7.** 76.67 (2) of the statutes is amended to read:

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

18 **SECTION 8.** 234.45 (1) (e) of the statutes is amended to read:

19 234.45 (1) (e) “Qualified development” means a qualified low-income housing
20 project under section 42 (g) of the Internal Revenue Code that is ~~financed with~~
21 ~~tax-exempt bonds, pursuant to section 42 (i) (2) of the Internal Revenue Code, and~~
22 located in this state.

23 **SECTION 9.** 234.45 (1) (em) of the statutes is created to read:

