



State of Wisconsin
2021 - 2022 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 606**

October 19, 2021 - Offered by Representative PRONSCHINSKE.

1 **AN ACT** *to create* 77.54 (70) and 234.47 of the statutes; **relating to:** creating a
2 sales tax exemption for materials used to construct housing developments or to
3 conduct housing rehabilitation projects.

Analysis by the Legislative Reference Bureau

This bill creates a sales and use tax exemption for the sale of building materials, supplies, and equipment and landscaping and lawn maintenance services if the property or service is acquired solely for, or used solely in, the construction or development of a housing development or is acquired solely for, or used solely in, a housing rehabilitation project. The bill defines “housing development” to mean a development in Wisconsin that meets all of the following conditions:

1. It consists of land that is zoned for residential use.
2. The housing costs for households occupying the development’s residential units do not exceed, or are not expected to exceed, 30 percent of the median household income for the county in which the development is located.
3. The residential units are intended for initial occupancy by individuals whose household income does not exceed 120 percent of the county’s median household income.

The bill defines “housing rehabilitation project” as a project involving improvement to housing in this state to maintain the housing in a decent, safe, and sanitary condition or to restore it to that condition if housing is occupied by or is

intended for occupancy by individuals whose household income does not exceed 120 percent of the county's median household income and if the project involves the removal of lead paint or structural improvements.

Under the bill, the tax exemption may be claimed only by a person holding a valid exemption certificate issued by the Wisconsin Housing and Economic Development Authority. In order to receive an exemption certificate, a person must submit an application to WHEDA that includes the following:

1. A description of the project.
2. A certification that the project is a housing development or housing rehabilitation project.
3. If the application relates to a housing development, documentation showing the housing costs, or expected housing costs, of the initial occupant of each residential unit in the development.
4. If the application relates to a housing rehabilitation project, the estimated value of each house undergoing rehabilitation.

The bill requires WHEDA to issue an exemption certificate to a person who submits a completed application if WHEDA determines that the person is constructing or developing an eligible housing development or is conducting an eligible housing rehabilitation project. WHEDA must notify the person of its determination no later than 15 days after receiving the person's application. If WHEDA does not notify the applicant within the 15 days, the application is automatically approved and WHEDA must issue an exemption certificate to the person.

Under the bill, the sales and use tax exemption may not be claimed for property and services acquired for or used in the construction or development of property for public use within a housing development. The bill defines "property for public use" to include sidewalks, wastewater collection and treatment systems, drinking water systems, storm sewers, utility extensions, telecommunications infrastructure, streets, roads, bridges, and parking ramps.

Finally, the program established in the bill sunsets after five years.

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

- 1 **SECTION 1.** 77.54 (70) of the statutes is created to read:
- 2 **77.54 (70)** The sales price from the sale of building materials, supplies, and
- 3 equipment and the sale of services described in s. 77.52 (2) (a) 20., and the storage,
- 4 use, or other consumption of the same property and services, to a person holding a
- 5 valid exemption certificate issued under s. 234.47 if the property or service is
- 6 acquired solely for, or used solely in, the construction or development of a housing

1 development, as defined in s. 234.47 (1) (c), or is acquired solely for, or used solely in
2 a housing rehabilitation project, as defined in s. 234.47 (1) (d). This subsection does
3 not apply to property and services acquired for or used in the construction or
4 development of property for public use, as defined in s. 234.47 (1) (e), within the
5 development.

6 **SECTION 2.** 234.47 of the statutes is created to read:

7 **234.47 Housing development and rehabilitation sales tax exemption.**

8 **(1) DEFINITIONS.** In this section:

9 (a) “Exemption certificate” means a certificate issued by the authority that
10 authorizes the person holding the certificate to claim the tax exemption under s.
11 77.54 (70).

12 (b) “Housing costs” has the meaning given in s. 16.301 (3) (a) and (b).

13 (c) “Housing development” means a development in this state that meets all of
14 the following conditions:

15 1. It consists of land zoned for residential use.

16 2. The housing costs for each household occupying a residential unit in the
17 development do not exceed, or are not expected to exceed, 30 percent of the median
18 household income in the county in which the development is located, based on the
19 American community survey 5-year estimates produced by the U.S. bureau of the
20 census.

21 3. The residential units in the development are intended for initial occupancy
22 by individuals whose household income does not exceed 120 percent of the median
23 household income in the county in which the development is located, based on the
24 American community survey 5-year estimates produced by the U.S. bureau of the
25 census.

1 (d) “Housing rehabilitation project” means a project involving improvement to
2 housing in this state to maintain the housing in a decent, safe, and sanitary condition
3 or to restore it to that condition if the housing is occupied by or is intended for
4 occupancy by individuals whose household income does not exceed 120 percent of the
5 median household income in the county in which the development is located, based
6 on the American community survey 5-year estimates produced by the U.S. bureau
7 of the census, and if the project involves the removal of lead paint or structural
8 improvements, including any of the following:

9 1. Repairing or replacing a heating system, electrical system, plumbing system,
10 roof, window, or exterior door.

11 2. Repairing the foundation.

12 3. Repairing or replacing insulation or siding.

13 (e) “Property for public use” includes sidewalks, wastewater collection and
14 treatment systems, drinking water systems, storm sewers, utility extensions,
15 telecommunications infrastructure, streets, roads, bridges, and parking ramps.

16 **(2) CERTIFICATION TO CLAIM TAX EXEMPTION.** The authority shall establish and
17 administer a program to issue exemption certificates for purposes of claiming the tax
18 exemption under s. 77.54 (70). A person who wishes to be issued an exemption
19 certificate shall apply to the authority on a form prescribed by the authority. The
20 application shall contain all of the following:

21 (a) A description of the project, including its location.

22 (b) A certification by the person that the project is a housing development or
23 housing rehabilitation project.

1 (c) If the application relates to a housing development, documentation showing
2 that the housing costs, or expected housing costs, of the initial occupant of each
3 residential unit in the development.

4 (d) If the application relates to a housing rehabilitation project, the estimated
5 value of each house undergoing rehabilitation.

6 **(3) APPROVAL.** The authority shall issue an exemption certificate to a person
7 who submits a completed application under sub. (2) if the authority determines that
8 the person is constructing or developing a housing development or is undertaking a
9 housing rehabilitation project. No later than 15 days after receipt of an application
10 under sub. (2), the authority shall determine whether to approve the application,
11 notify the applicant of the authority's determination, and, if the application is
12 approved, issue an exemption certificate to the applicant. If the authority does not
13 notify the applicant within 15 days of receipt of the application, the application shall
14 be approved and the authority shall issue the person an exemption certificate.

15 **(4) PUBLIC USE PROPERTY.** A person may not use the exemption certificate issued
16 under sub. (3) to claim an exemption under s. 77.54 (70) for property and services
17 acquired for or used in the construction or development of property for public use
18 within the housing development.

19 **(5) INFORMATION SHARING.** The authority shall provide to the department of
20 revenue a copy of each exemption certificate issued under sub. (3) and, upon request
21 by the department, a copy of any application submitted under sub. (2).

22 **(6) POLICIES AND PROCEDURES.** The authority, in consultation with the
23 department of revenue, shall establish policies and procedures to administer this
24 section.

