Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

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Property Tax Deferral Loan Program (Wisconsin Housing and Economic Development Authority)

CURRENT LAW

The Wisconsin Housing and Economic Development Authority (WHEDA) administers the property tax deferral loan (PTDL) program, in which persons age 65 or older with substantial equity in their owner-occupied primary residence, and with income no more than $20,000, can apply to WHEDA for annual loans to pay taxes and special assessments on the residence. A property tax deferral loan is intended to allow persons with relatively little liquidity to convert home equity into cash to pay property taxes due on their residence.

In addition to age and income limits, the property on which taxes are due must not have outstanding liens exceeding: (a) 33% of the value of the property, excluding any WHEDA property tax deferral or housing rehabilitation loans; and (b) 50% of the value of the property, including WHEDA-issued and all other outstanding loans. These provisions are intended to limit excessive obligations on the property, which could otherwise jeopardize future repayment to WHEDA. Property tax deferral loans most often become fully due on: (a) the sale of the property; or (b) the death of the property owner or, if the original borrower is deceased, the eligible co-owner, such as a spouse. The annual deadline for application is June 30, and the maximum loan under the program is $3,525 annually. For persons applying to pay taxes due in July, 2012, WHEDA made 38 loans for $104,000, for an average loan of $2,738. The program is funded from WHEDA's general reserves.

GOVERNOR

No provision.

DISCUSSION POINTS

1. 2011 Act 32 included a provision extending eligibility for the program to veterans of

any age who also meet the income limit. This expanded eligibility would have taken place for loan applications for payment of 2011 property taxes received by June 30, 2012. However, WHEDA has not implemented the program to allow veterans meeting the Act 32 eligibility criteria to participate in the program. The Authority also reports no low- to moderate-income veterans applied for the program in 2012.

2. Prior to Act 32, the statutory language authorizing the PTDL program included a definition of "participant" that read as follows:

> " 'Participant' means a natural person 65 years of age or older who has been accepted into the program."

Act 32 modified the definition to read:

> "'Participant' means all of the following:
>
> (a) A natural person 65 years of age or older who has been accepted into the program.
>
> (b) A veteran, as defined in s. 45.01 (12) (a) to (f), who has been accepted into the program."

Qualifying veterans generally are those living persons that served in active duty and under honorable conditions in the U.S. armed forces during periods of conflict or crisis. The statutes also allow for persons who were released from service due to disability or due to a reduction in the armed forces.

WHEDA indicates the provision could be interpreted as requiring that a participant be both a veteran and 65 or older. Such an interpretation would restrict eligibility for persons 65 or older that have previously been eligible. WHEDA officials concede it is implausible that the Legislature would have sought to restrict eligibility in such a manner, but the program has not been changed to admit veterans below age 65 who meet other program requirements. Instead, since Act 32, the PTDL program criteria have not changed, remaining open to anyone age 65 or older meeting other requirements relating to income and outstanding liens on the property.

3. It is unclear what number of veterans would be eligible for loans if the PTDL program were implemented to allow veterans. The U.S. Department of Veterans Affairs estimates 400,000 veterans may live in Wisconsin in 2013. However, participants would be required to meet other eligibility criteria, including maximum household income of $20,000 and outstanding liens not exceeding 33% of the property's value (67% equity), and available data suggest a substantial number of Wisconsin veterans would likely be excluded from participation due to the income and equity criteria. Specifically, the U.S. Census Bureau's 2011 American Community Survey indicates Wisconsin veterans had individual median income of $31,900 in the preceding year. Also, data from the Federal Reserve indicate average homeowner equity nationally is about 46.6%, as of the fourth quarter of 2012.

4. The Committee could consider including language in the bill that would clarify the intention of Act 32. One option would be to modify current statutory language to specify that a participant means either of the two criteria currently listed. This would preclude an interpretation

under which a participant had to meet both the age requirement and a requirement for veteran status [Alternative 1].

5. Some may argue that the potential for a significant increase of veterans under age 65 in the PTDL program could commit WHEDA's general reserves, which fund the program, to loans that may remain outstanding longer than is currently typical under the program. This may be particularly so if such loans were to remain outstanding until the participant's death. Under such circumstances, it may be desirable for WHEDA to have the ability to modify program provisions such that the Authority could specify an earlier repayment if warranted. It is unclear whether such allowances exist under current law. The Committee could consider specifying language allowing WHEDA to determine repayment terms other than those under current law, provided a participant has been admitted only on the basis of his or her veteran status, and has not attained the age of 65 [Alternative 2a]. On the other hand, it could be argued that the incidence of long-term outstanding loans would be mitigated both by the equity requirements described previously and by loan recipients selling the property in the future, which would make the loan due.

6. Currently, co-owners under the PTDL program have survivorship and other transfer privileges that would prevent a property tax deferral loan from otherwise being due in certain circumstances, such as the death of the original participant. Currently, eligible co-owners are persons with an ownership interest in a subject property that also are either: (a) at least 60 years old; or (b) a participant's spouse who is permanently disabled. However, veterans not near the typical participant age of 65, but otherwise eligible, may have spouses that do not meet either criterion. If the Committee wished to modify the current statutory language, it may wish to consider specifying eligible co-owners under the PTDL program may include the spouse of a veteran that has been accepted to the program [Alternative 2b].

7. The Committee also could consider deleting the modifications included in Act 32 [Alternative 3]. This would revert program eligibility only to persons age 65 or older who also meet requirements for income and outstanding obligations on the property. The Committee also could take no action [Alternative 4], which would preserve current law without statutory modifications. In such a case, WHEDA likely would continue operating the PTDL program without extending eligibility to veterans under age 65.

ALTERNATIVES

1. Specify a participant in the WHEDA property tax deferral loan program means any of the following: (a) a natural person 65 years of age or older who has been accepted into the program; or (b) a veteran, as defined in s. 45.01 (12) (a) to (f), who has been accepted into the program.

2. Adopt Alternative 1. Further, specify one or both of the following:

a. Notwithstanding current property tax deferral loan repayment provisions, WHEDA may require alternate repayment terms for a participant, provided the participant has been admitted only on the basis of his or her veteran status, and the participant has not attained the age of 65.

b. In addition to current definitions for eligible co-owners, an eligible co-owner includes the spouse of a veteran accepted to the program.

3. Delete statutory language providing separate eligibility for veterans under the property tax deferral loan program.

4. Take no action.

Prepared by: Paul Ferguson