
Wisconsin Legislative Council

AMENDMENT MEMO



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2023 Senate Bill 40

Senate Amendments 1 and 2

BACKGROUND

The Wisconsin Housing and Economic Development Authority (WHEDA) administers a state income and franchise tax credit program for qualified low-income housing developments. WHEDA certifies a person to claim a tax credit through the program by issuing an allocation certification for a qualified development, if certain conditions are satisfied. Among other conditions, the housing development must be a qualified low-income housing project under section 42 of the Internal Revenue Code that is financed with tax-exempt bonds.

The aggregate amount of all tax credits that WHEDA certifies in any calendar year may not exceed \$42 million, including all amounts each person is eligible to claim for each year of the credit period, plus certain previously unallocated or recovered amounts.

2023 SENATE BILL 40

2023 Senate Bill 40 makes the following changes to the program:

- Allows a person to carry back the unused balance of a credit to the previous taxable year.
- Allows an insurer—if a partner of a partnership, member of a limited liability company, or shareholder in a tax-option corporation—to claim the credit based on eligible costs incurred by the partnership, company, or corporation.
- Removes the requirement that a housing development be financed with tax-exempt bonds.
- Increases the aggregate amount of all tax credits that WHEDA may certify in any calendar year from \$42 million to \$100 million.
- Requires WHEDA to ensure that at least 35 percent of the value of all tax credits it allocates each year are for housing developments in a rural area.¹ “Rural area” is defined as a city, village, or town with a population of less than 10,000 that is located at least 25 miles from a city, village, or town with a population of at least 50,000.

SENATE AMENDMENT 1

Senate Amendment 1 removes the provisions of the bill allowing a person to carry back the unused balance of a credit to the previous taxable year.

¹ This requirement does not apply in any year in which WHEDA does not receive a sufficient number of applications for housing developments in a rural area.

The amendment also resolves contradictory language in current law regarding tax liability among the partners of a partnership, the members of a limited liability company, and the shareholders in a tax-option corporation, in a situation where the liability arises from a dispute with the Department of Revenue related to claiming the credit.

SENATE AMENDMENT 2

Senate Amendment 2 changes the definition of “rural area.” Under the amendment, the city, village, or town with a population of less than 10,000 must be located at least 10 miles from the larger city, village, or town instead of 25 miles.

BILL HISTORY

Senator Feyen offered Senate Amendment 1 on March 16, 2023, and Senate Amendment 2 on May 24, 2023. On June 9, 2023, the Senate Committee on Housing, Rural Issues and Forestry recommended adoption of each amendment on votes of Ayes, 4; Noes, 0, and passage of the bill, as amended, on a vote of Ayes, 4; Noes, 1.

For a full history of the bill, visit the Legislature’s [bill history page](#).

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