



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRBs0135/1  
EKL:emw

**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.

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***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each year by an amount equal to all unallocated credits from prior years, all previously allocated credits that have been revoked, canceled, or otherwise recovered by WHEDA, and credits allocated for qualified housing developments in small municipalities that were not claimed.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)**