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# Wisconsin Legislative Council

## ACT MEMO

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### 2023 Wisconsin Act 14 [2023 Assembly Bill 264]

### Residential Housing Infrastructure Loan Fund

2023 Wisconsin Act 14 creates a residential housing infrastructure revolving loan fund and loan fund program.

## REVOLVING LOAN FUND

The act creates a residential housing infrastructure revolving loan fund under the jurisdiction and control of the Wisconsin Housing and Economic Development Authority (WHEDA). The fund consists of amounts appropriated to it and amounts received from the repayment of loans. Of the appropriations to the fund in the 2023-25 fiscal biennium,<sup>1</sup> WHEDA must return to the Department of Administration for deposit in the general fund any such amounts not encumbered or expended for an eligible project as of January 1, 2031.

## LOANS TO DEVELOPERS

Under the program, a developer may apply to WHEDA for a loan to cover the costs of that portion of the installation, replacement, upgrade, or improvement of public infrastructure,<sup>2</sup> or private infrastructure in rural areas if transferred to public use, as determined by WHEDA, that relates to workforce housing<sup>3</sup> or senior housing.<sup>4</sup> The housing associated with an infrastructure loan must be new single-family or multi-family housing for rent or for sale.<sup>5</sup>

The housing must remain workforce housing or senior housing for 10 years following initial occupancy. That restriction must be recorded against the residential property with the register of deeds and must run with the land.

In the case of housing intended to be owner-occupied, the housing may not be sold during that 10-year period for a price that exceeds the price charged by the developer to the initial owner-occupier, except for an annual adjustment based on an increase in the sale price of all residential housing in the relevant

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<sup>1</sup> 2023 Wisconsin Act 19, the 2023-25 biennial budget act, appropriated \$ 275 million to the fund in fiscal year 2023-24.

<sup>2</sup> “Public infrastructure” means any of the following that is or will be owned, maintained, or provided to or by a governmental unit: water distribution system; water treatment plant; wastewater treatment plant; sanitary sewer system; storm sewer system; stormwater retention pond; lift or pump station; street, road, alley, or bridge; curb, gutter, or sidewalk; traffic device; street light; or electric or gas distribution line.

<sup>3</sup> “Workforce housing” is housing that costs a household no more than 30 percent of 140 percent of area median income (or 100 percent of area median income in the case of rental housing) and is for occupancy by individuals whose household median income does not exceed 140 percent of area median income (or 100 percent of area median income in the case of rental housing).

<sup>4</sup> “Senior housing” is workforce housing that is intended and operated primarily for occupancy by at least one person 55 years of age or older per dwelling unit.

<sup>5</sup> In addition, the housing must be subject to property taxation, not have been the subject of a claim for a historic rehabilitation tax credit, and not have received financial assistance from tax increments generated by an active tax incremental district.

county. WHEDA must publish on its website the acceptable sale price range for the property during the 10-year period.

In the case of rental housing, the owner must submit to WHEDA a certified rent roll showing relevant costs and rent paid during that 10-year period. WHEDA must keep confidential all information an owner submits in connection with a certified rent roll.

A loan may not be awarded unless the developer and the governmental unit<sup>6</sup> having jurisdiction over the infrastructure project demonstrate the following to the satisfaction of WHEDA:

- The developer has secured the necessary financial resources for the total cost of development of the residential housing supported by the infrastructure project.
- The developer has secured all applicable permits or other approvals.
- Any applicable sewer or water service area plan has been amended if necessary.
- The governmental unit has reduced the cost of residential housing in connection with the infrastructure project by voluntarily revising zoning ordinances, subdivision regulations, or other land development regulations to increase development density, expedite approvals, reduce impact, water connection, and inspection fees, or reduce parking, building, or other development costs with respect to the development of residential housing supported by the infrastructure project.<sup>7</sup>
- The governmental unit is in compliance with applicable requirements relating to comprehensive planning, the housing affordability report, and the new housing fee report.
- If applicable, the governmental unit has updated the housing element of its comprehensive plan within the five years immediately preceding the date of the loan application.

A loan to a developer may not exceed 20 percent of the total cost of development, including land purchase, of the residential housing supported by the infrastructure project.

## **LOANS TO GOVERNMENTAL UNITS**

If WHEDA awards an infrastructure loan to a developer, WHEDA may also award a loan to the governmental unit having jurisdiction over the development. The governmental unit may use this loan to cover its public infrastructure costs incurred in connection with the developer's project that are not directly related to the developer's project itself. A loan to a governmental unit may not exceed 10 percent of the total cost of the residential housing development supported by the infrastructure project.

## **ADMINISTRATION OF LOANS AND THE LOAN FUND**

WHEDA must establish policies and procedures to administer the loan fund and the loan program. The policies and procedures must, to the extent practicable, address credit underwriting guidelines, loan security, and loan repayment requirements. In addition, WHEDA and the developer, or WHEDA and the governmental unit, must enter into an agreement establishing terms and conditions of the loan, among other matters.

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<sup>6</sup> "Governmental unit" means a city, village, town, county, or federally recognized American Indian tribe or band.

<sup>7</sup> The governmental unit must submit a cost reduction analysis that shows the cost reduction measures, including time saving measures, undertaken by the governmental unit on or after January 1, 2023, that have reduced the cost of residential housing in connection with the project. The analysis shall clearly show for each time saving or cost reduction measure the estimated time or dollar amount saved by the developer and the estimated percentage reduction in housing costs.

The act requires that WHEDA set aside certain percentages of the amounts deposited in the fund in the 2023-25 fiscal biennium for a period of at least four years for projects for senior housing and for projects in cities, villages, and towns with a population of 10,000 or less. WHEDA may not award more than 25 percent of those amounts to loans in any one region of the state served by a regional planning commission.

WHEDA may charge interest at or below market rates on any loan made from the loan fund or may charge no interest.

Finally, WHEDA must establish a marketing program to advertise the loan program and must submit annual reports to the Legislature.

**Effective date:** June 24, 2023

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

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