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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2023 Assembly Bill 39**

**Assembly  
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 ASSEMBLY BILL 39

2023 Assembly Bill 39 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.<sup>1</sup> “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.

### ASSEMBLY AMENDMENT 1

Assembly 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.

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<sup>1</sup> 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.

## **ASSEMBLY AMENDMENT 2**

Assembly 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**

Representative Armstrong offered Assembly Amendment 1 on March 16, 2023, and Assembly Amendment 2 on May 24, 2023. On June 6, 2023, the Assembly Committee on Housing and Real Estate voted to recommend adoption of each amendment on votes of Ayes, 11; Noes, 0, and passage of the bill, as amended, on a vote of Ayes, 14; Noes, 0.

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

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