

State of Wisconsin



2023 Assembly Bill 265

Date of enactment:
Date of publication*:

2023 WISCONSIN ACT

AN ACT to create 234.661 of the statutes; relating to: a main street housing rehabilitation revolving loan fund and loan program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 234.661 of the statutes is created to read:

234.661 Main street housing rehabilitation revolving loan fund and loan program. (1) DEFINITIONS. In this section:

(a) "Area median income" means the area median family income in the county in which the housing is located, adjusted for family size, as published annually by the federal department of housing and urban development.

(b) "Eligible political subdivision" means the city, village, town, or county having jurisdiction of an eligible project, as determined by the authority.

(c) "Eligible project" means a project for housing rehabilitation of existing workforce housing that satisfies all of the following conditions:

1. Is located on the 2nd or 3rd floor of an existing 2-story or 3-story building with a commercial use on the main floor, if the space in the building that is devoted to a commercial use constitutes no more than two-thirds of the building's gross square footage.

2. Is located in a building that was constructed at least 40 years prior to the date of application under sub. (3) (b).

3. Has not been significantly improved for at least 20 years prior to the date of application under sub. (3) (b), as determined by the authority.

4. Is vacant or has been underutilized, as determined by the authority.

5. Has not been the subject of a claim for a state or federal historic rehabilitation tax credit, as determined by the authority.

6. Has not received financial assistance from tax increments generated by an active tax incremental district.

(d) "Housing rehabilitation" means that portion of an improvement to rental housing that relates to an eligible project if the improvement is to maintain the housing in a decent, safe, and sanitary condition or to restore it to that condition, including any of the following:

1. Repairing or replacing a heating system, electrical system, internal plumbing system, interior wall or ceiling, roof, window, exterior door, or flooring.

2. Repairing or replacing insulation or siding.

3. Remediating lead paint, asbestos, or mold in accordance with applicable local, state, and federal laws and regulations.

(e) "Rental housing" means single-family or multi-family housing offered or intended to be offered for rent that is subject to taxation under ch. 70.

(f) "Workforce housing" means rental housing to which all of the following apply:

1. The estimated annual housing costs, as defined under s. 16.301 (3), do not exceed, or are not expected to

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

exceed, 30 percent of 100 percent of the area median income, with family size determined using the federal imputed income limitation, as defined in 26 USC 42 (g) (2) (C), and the utility-related costs if not included in the rent equal the utility allowance determined by the federal department of housing and urban development.

2. The housing is for occupancy by individuals whose annual household income does not exceed 100 percent of the area median income.

(2) ESTABLISHMENT OF FUND. (a) There is established under the jurisdiction and control of the authority a main street housing rehabilitation revolving loan fund, for the purpose of providing loans under sub. (3). The authority may use moneys in the fund to cover actual and necessary expenses, including marketing expenses under sub. (4), incurred to accomplish the purposes of this section and administer the fund. The fund shall consist of all of the following:

1. All moneys appropriated to the authority for the fund.

2. All moneys received from the repayment of loans under sub. (3).

(am) In its discretion, the authority may invest fund moneys that are not required for immediate use or disbursement in all of the following to the extent lawful for fiduciaries in this state:

1. An obligation of the United States or one of its agencies or instrumentalities, or an obligation the principal and interest of which are guaranteed by the United States or one of its agencies or instrumentalities.

2. An obligation of any state, or of any county, city, or other political subdivision of a state, having long-term ratings in the AA category or higher.

3. A certificate of deposit.

4. The state investment fund.

5. A money market mutual fund restricted to one or more investments as provided in subd. 1., 2., 3., or 4.

(an) All investments under par. (am) shall be the exclusive property of the fund. All earnings on or income from such investments shall be credited to the fund.

(b) Of the amounts deposited in the fund under par. (a) 1. in the 2023–25 fiscal biennium, the authority shall return to the secretary of administration for deposit in the general fund all such amounts not encumbered or expended for an eligible project as of the first day of the 8th year beginning after the effective date of this paragraph [LRB inserts date].

(c) No moneys in the fund may be invested under s. 234.03 (18).

(3) ESTABLISHMENT AND ADMINISTRATION OF REVOLVING LOAN PROGRAM. (a) The authority shall establish and administer a main street housing rehabilitation revolving loan program for the purpose of awarding loans under this subsection.

(b) From the main street housing rehabilitation revolving loan fund, the authority may award loans to

owners of rental housing to cover housing rehabilitation costs for an eligible project. Any owner of rental housing, other than a city, village, town, or county, may apply to the authority for a loan in accordance with the application process established by the authority under par. (c), but the authority may not award the loan unless the owner of the rental housing and eligible political subdivision demonstrate to the satisfaction of the authority in one or more forms prescribed by the authority that all of the following apply:

1. The owner has secured the necessary financial resources for the total cost of the housing rehabilitation project not to be covered by a loan from the authority under this subsection.

2. The owner has secured all applicable federal, state, and local government permits or other approvals for the eligible project.

3. The eligible political subdivision has reduced the cost of rental housing in connection with the eligible project by voluntarily revising zoning ordinances, subdivision regulations, or other land development regulations to increase development density, expedite approvals, reduce impact fees, or reduce parking, building, or other development costs with respect to the eligible project. For purposes of this subdivision, the political subdivision in cooperation with the owner shall submit to the authority a cost reduction analysis in a form prescribed by the authority and signed by the owner and the head of the political subdivision's governing body that shows the cost reduction measures, including time saving measures, undertaken by the political subdivision on or after January 1, 2023, that have reduced the cost of rental housing in connection with the eligible project. The signed analysis shall clearly show for each time saving or cost reduction measure the estimated time or dollar amount saved by the owner and the estimated percentage reduction in rental housing costs.

4. The eligible political subdivision is in compliance with the requirements under ss. 66.1001, 66.10013, and 66.10014, to the extent those requirements apply to the political subdivision.

5. The eligible political subdivision has updated the housing element of its comprehensive plan under s. 66.1001 (2) (b) within the 5 years immediately preceding the date of the loan application.

(c) The authority shall establish a semiannual application process for the award of loans under this subsection. If in any application cycle there are insufficient moneys available in the main street housing rehabilitation revolving loan fund to fund all applications that meet the requirements under par. (b) and are otherwise acceptable to the authority, the authority shall prioritize funding loans for eligible projects in eligible political subdivisions that have reduced the cost of rental housing as described in par. (b) 3. but with respect to the political subdivision as a whole.

(d) No loan awarded under this subsection may exceed \$20,000 per dwelling unit or 25 percent of the total housing rehabilitation project costs, whichever is less, and the authority may establish an interest rate for any loan awarded under this subsection at or below the market interest rate or may charge no interest.

(e) The authority shall set aside 30 percent of all monies deposited in the fund under sub. (2) (a) 1. in the 2023–25 fiscal biennium for a period of not less than 4 years following the effective date of this paragraph ... [LRB inserts date], for loans under this subsection to owners of rental housing for eligible projects in cities, villages, and towns with a population of 10,000 or less. For purposes of this paragraph, if a single loan supports eligible projects in more than one city, village, or town, the amount of such loan attributable to any one city, village, or town shall be calculated by prorating the loan amount between the cities, villages, and towns based on the number of rental housing units supported by the loan.

(f) 1. The authority and each owner receiving a loan under this subsection shall enter into an agreement establishing the term and other conditions of the loan. The agreement shall include, and give the authority the power to enforce, all of the following requirements:

a. That the full amount of the loan shall become due upon the owner's sale of the rental housing rehabilitated with loan proceeds.

b. That all rental housing rehabilitated with loan proceeds shall remain workforce housing for a period commencing on the date of the loan and concluding 10 years following initial occupancy of all of the rental units of the housing rehabilitated with loan proceeds. This restriction shall be recorded against the rental property with the applicable register of deeds and shall run with the land.

c. That the owner of the rental housing, for a period commencing on the date of the loan and concluding 10 years following initial occupancy of all of the rental units rehabilitated using loan proceeds, shall annually submit to the authority a certified rent roll for the housing that sets forth for each rental unit the monthly rent required under the lease, the actual monthly rent received for the preceding year, and an identification of the utilities and their amounts included in the rent. This restriction shall be recorded against the residential property with the applicable register of deeds and shall run with the land. The authority shall use the information provided under this subd. 1. c. to confirm that the rental housing continues to meet the housing costs limitation for purposes of sub. (1) (f) 1. The authority shall calculate the applicable monthly limitation on housing costs for each year by dividing the area median income for the year by 12, with family size determined using the federal imputed income limitation, as defined in 26 USC 42 (g) (2) (C). If in any year the area median income has decreased compared to the prior year, the applicable housing cost limitation shall be calculated based on the most recent area median

income information prior to such decrease. The authority shall keep confidential all information an owner of rental housing submits to the authority under this subd. 1. c.

d. If the rental housing to be rehabilitated with loan proceeds contains lead paint, asbestos, or mold, the authority's loan agreement with the owner shall require the owner to remediate the hazardous material or condition as required by and in accordance with local, state, and federal laws or regulations.

2. Any restriction recorded against the property under subd. 1. shall terminate on the date the property is acquired by foreclosure, or by an instrument in lieu of foreclosure, unless the authority determines that the acquisition is part of an arrangement a purpose of which is to terminate the restriction.

(g) In addition to other criteria explicitly provided for under this subsection, in awarding each loan under this subsection, the authority shall take into account only the following in descending order of priority:

1. Credit risk, collateral, and the need for a loan guarantee.

2. The estimated reduction in housing costs.

3. The need for workforce housing in the area.

(3m) POLICIES AND PROCEDURES. The authority shall establish policies and procedures to administer the main street housing rehabilitation revolving loan fund and program under this section. The policies and procedures shall, to the extent practicable, do all of the following:

(a) Incorporate the authority's policies and procedures for establishing credit underwriting guidelines.

(b) Require that the full amount of each loan under sub. (3) is secured by one or more unlimited personal guarantees, unless the developer provides no personal guarantee on any first mortgage for the eligible project and the developer's total debt associated with project does not exceed 75 percent of the total collateral value of the project, as determined by the authority.

(c) Establish loan repayment requirements.

(4) MARKETING. The authority shall establish and administer a marketing program to advertise the loans available under this section.

(5) ANNUAL REPORTS. Beginning in 2024, no later than August 1 of each year, the authority shall submit to the joint committee on finance and under s. 13.172 (3) to the standing committees of the legislature having jurisdiction over matters related to housing a report that includes all of the following:

(a) A statement of the condition and balance of the main street housing rehabilitation revolving loan fund.

(b) Information concerning each loan awarded under sub. (3), including all of the following:

1. The date, amount, amortization period, and current status of the loan.

2. An identification of the owner of rental housing receiving the loan.

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3. A description of the eligible project funded with the loan.

4. An identification of the eligible political subdivision with respect to which the loan was awarded.

(c) The number of dwelling units rehabilitated to date as a result of the loan program and the locations and sale or estimated sale or rental prices of the dwelling units.
