



2023 ASSEMBLY BILL 268

May 16, 2023 - Introduced by Representatives SUMMERFIELD, BROOKS, EMERSON, STEFFEN, C. ANDERSON, BEHNKE, BRANDTJEN, DITTRICH, DOYLE, DUCHOW, EDMING, GREEN, JOERS, KITCHENS, MOSES, MURPHY, ORTIZ-VELEZ, PENTERMAN, PETRYK, PLUMER, RETTINGER, SCHRAA, SHANKLAND, SINICKI, SNYDER, SWEARINGEN, WICHGERS and KRUG, cosponsored by Senators FEYEN, QUINN, JACQUE, JAGLER and NASS. Referred to Committee on Housing and Real Estate.

1 **AN ACT** *to create* 234.662 of the statutes; **relating to:** commercial-to-housing
2 conversion revolving loan fund and loan program.

Analysis by the Legislative Reference Bureau

This bill establishes a commercial-to-housing conversion revolving loan fund under the jurisdiction and control of the Wisconsin Housing and Economic Development Authority. The purpose of the fund is for WHEDA to award loans as provided in the bill to developers for the conversion of vacant commercial buildings to new residential developments consisting of workforce or senior housing and containing at least 16 dwelling units. The bill requires WHEDA, for a period of four years, to set aside 25 percent of any moneys appropriated to the fund in the 2023-25 fiscal biennium for commercial-to-housing conversion projects supporting senior housing.

The bill includes definitions of both workforce housing and senior housing. Workforce housing is defined for both rental and owner-occupied housing based on the ratio of housing costs and the ratio of household income to the area median income of the county in which the housing is located, adjusted for family size, as published annually by the federal Department of Housing and Urban Development. Under the bill, senior housing is housing that satisfies the definition of workforce housing but is intended and operated primarily for occupancy by at least one person 55 years of age or older per dwelling unit.

In accordance with a semiannual application process established by WHEDA, a residential housing developer may apply to WHEDA for a loan under the program, but WHEDA may not award the loan unless the developer and the political

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subdivision having jurisdiction of the commercial-to-housing conversion project demonstrate to the satisfaction of WHEDA in one or more forms prescribed by WHEDA that all of the following apply:

1. The developer has secured the necessary financial resources for the total cost of development of the residential housing supported by the eligible project.

2. The developer has secured all applicable federal, state, and local government permits or other approvals for the eligible project and the residential housing supported by the eligible project.

3. The eligible political subdivision has reduced the cost of residential housing in connection with the specific commercial-to-housing conversion project to be funded by the loan 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 construction of residential housing supported by the project.

4. The eligible political subdivision is in compliance with certain statutory housing planning and reporting requirements.

5. The eligible political subdivision has updated the housing element of its comprehensive plan required by statute within the immediately preceding five years.

If in any application cycle there are insufficient moneys available in the commercial-to-housing conversion revolving loan fund to fund all applications that meet the requirements of the bill and are otherwise acceptable to WHEDA, WHEDA is required to prioritize funding loans for eligible projects in eligible political subdivisions that have reduced the cost of residential housing as described in item 3 above with respect to the political subdivision as a whole.

The bill prohibits WHEDA from charging any interest on a loan awarded to a developer under the bill and limits the amount of each loan to the lesser of \$1,000,000 per eligible project or 20 percent of the total project costs.

The bill requires that WHEDA enter into an agreement with each developer receiving a loan under the bill that establishes the term and other conditions of the loan. The agreement is required to include certain provisions, some of which are to be recorded with the applicable register of deeds and to run with the land, that are designed to ensure that the residential housing constructed in connection with a loan remains workforce or senior housing for at least 10 years, whether rental or owner-occupied, that require owner-occupied residential housing constructed in connection with a loan to remain owner-occupied for at least 10 years, and that limit for a 10-year period the sales price of such owner-occupied residential housing, adjusted annually by the average compounded annual percentage increase in the sale price of all residential housing in the county in which the housing is located, as determined by WHEDA.

In addition to the requirement described above that WHEDA set aside for senior housing 25 percent of any moneys appropriated to the fund in the 2023-25 fiscal biennium, the bill provides that WHEDA must, for a period of four years, set

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aside 30 percent of such moneys for commercial-to-housing conversion projects in cities, villages, and towns with a population of 10,000 or less.

Finally, the bill requires that WHEDA take actions to market the availability of loans under the bill and to submit annual reports to the Joint Committee on Finance and legislative committees having jurisdiction over housing relating to the loan program and the commercial-to-housing conversion revolving loan fund created under the bill.

Because this bill may increase or decrease, directly or indirectly, the cost of the development, construction, financing, purchasing, sale, ownership, or availability of housing in this state, the Department of Administration, as required by law, will prepare a report to be printed as an appendix to this bill.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 234.662 of the statutes is created to read:

2 **234.662 Commercial-to-housing conversion revolving loan fund and**
3 **loan program. (1) DEFINITIONS.** In this section:

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

7 (b) “Commercial” means nonresidential.

8 (c) “Developer” means a person other than a city, village, town, or county, that
9 converts a vacant commercial building to residential use.

10 (d) “Eligible political subdivision” means the city, village, town, or county
11 having jurisdiction of an eligible project, as determined by the authority.

12 (e) “Eligible project” means a construction project for the conversion of a vacant
13 commercial building to a new residential housing development that consists of
14 workforce housing or senior housing if all of the following apply:

15 1. The building has been vacant for at least one year.

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1 2. The building is zoned for residential use.

2 (f) "Residential housing" means single-family or multifamily housing for rent
3 or sale that is subject to taxation under ch. 70.

4 (g) "Residential housing development" means residential housing that consists
5 of 16 or more dwelling units.

6 (h) "Senior housing" means residential housing that satisfies par. (i) 1. to 4. that
7 is intended and operated primarily for occupancy by at least one person 55 years of
8 age or older per dwelling unit, as determined by the authority.

9 (i) "Workforce housing" means residential housing that satisfies all of the
10 following, as determined by the authority.

11 1. For housing intended to be rented, the estimated annual housing costs, as
12 defined under s. 16.301 (3), do not exceed, or are not expected to exceed, 30 percent
13 of 100 percent of the area median income, with family size determined using the
14 federal imputed income limitation, as defined in 26 USC 42 (g) (2) (C), and the
15 utility-related costs if not included in the rent equal the utility allowance
16 determined by the federal department of housing and urban development.

17 2. For housing intended to be occupied by the owner, the estimated annual
18 housing costs, as defined under s. 16.301 (3), do not exceed, or are not expected to
19 exceed, 30 percent of 140 percent of the area median income, with family size
20 determined using the federal imputed income limitation, as defined in 26 USC 42 (g)
21 (2) (C).

22 3. For housing intended to be rented, the housing is for occupancy by
23 individuals whose annual household income does not exceed 100 percent of the area
24 median income.

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1 4. For housing intended to be occupied by the owner, the housing is for purchase
2 by individuals whose annual household income is not more than 140 percent of the
3 area median income.

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

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

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

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

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

18 **(3) ESTABLISHMENT AND ADMINISTRATION OF REVOLVING LOAN PROGRAM.** (a) The
19 authority shall establish and administer a commercial-to-housing conversion
20 revolving loan program for the purpose of awarding loans under this subsection.

21 (b) From the commercial-to-housing conversion revolving loan fund, the
22 authority may award loans to developers to cover construction costs for an eligible
23 project, including demolition. Any developer may apply to the authority for a loan
24 in accordance with the application process established by the authority under par.

25 (c), but the authority may not award the loan unless the developer and the eligible

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1 political subdivision demonstrate to the satisfaction of the authority in one or more
2 forms prescribed by the authority that all of the following apply:

3 1. The developer has secured the necessary financial resources for the total cost
4 of the eligible project not to be covered by a loan from the authority under this
5 subsection.

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

8 3. The eligible political subdivision has reduced the cost of residential housing
9 in connection with the eligible project by voluntarily revising zoning ordinances,
10 subdivision regulations, or other land development regulations to increase
11 development density, expedite approvals, reduce impact, water connection, and
12 inspection fees, or reduce parking, building, or other development costs with respect
13 to the development of residential housing supported by the project. For purposes of
14 this subdivision, the political subdivision in cooperation with the developer shall
15 submit to the authority a cost reduction analysis in a form prescribed by the
16 authority and signed by the developer and the head of the political subdivision's
17 governing body that shows the cost reduction measures, including time saving
18 measures, undertaken by the political subdivision on or after January 1, 2023, that
19 have reduced the cost of residential housing in connection with the eligible project.
20 The signed analysis shall clearly show for each time saving or cost reduction measure
21 the estimated time or dollar amount saved by the developer and the estimated
22 percentage reduction in housing costs.

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

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

4 (c) The authority shall establish a semiannual application process for the
5 award of loans under this subsection. If in any application cycle there are insufficient
6 moneys available in the commercial-to-housing conversion revolving loan fund to
7 fund all applications that meet the requirements under par. (b) and are otherwise
8 acceptable to the authority, the authority shall prioritize funding loans for eligible
9 projects in eligible political subdivisions that have reduced the cost of residential
10 housing as described in par. (b) 3. but with respect to the political subdivision as a
11 whole.

12 (d) 1. The authority shall charge no interest on a loan awarded under this
13 subsection.

14 2. No loan awarded under this subsection may exceed \$1,000,000 per eligible
15 project or 20 percent of the total project costs, including any land purchase,
16 whichever is less.

17 (e) The authority shall set aside 25 percent of all moneys deposited in the fund
18 under sub. (2) (a) 1. in the 2023-25 fiscal biennium for a period of not less than 4 years
19 following the effective date of this paragraph [LRB inserts date], for loans under
20 this subsection for eligible projects for senior housing. For purposes of this
21 paragraph, if a loan supports both workforce housing and senior housing, the
22 amount of such loan supporting senior housing shall be calculated by prorating the
23 loan amount between the 2 uses based on the number of residential housing units
24 supported by the loan.

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1 (f) The authority shall set aside 30 percent of all moneys deposited in the fund
2 under sub. (2) (a) 1. in the 2023-25 fiscal biennium, including 30 percent of all
3 moneys set aside under par. (e), for a period of not less than 4 years following the
4 effective date of this paragraph [LRB inserts date], for loans under this subsection
5 to developers for eligible projects in cities, villages, and towns with a population of
6 10,000 or less. For purposes of this paragraph, if a single loan supports eligible
7 projects in more than one city, village, or town, the amount of such loan attributable
8 to any one city, village, or town shall be calculated by prorating the loan amount
9 between the cities, villages, and towns based on the number of residential housing
10 units supported by the loan.

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

15 a. That the full amount of the loan shall become due upon the developer's sale
16 or transfer of all residential housing constructed in connection with the loan.

17 b. That all residential housing constructed in connection with the loan shall
18 remain workforce housing or senior housing, as applicable, for a period commencing
19 on the date of the loan and concluding 10 years following initial occupancy of the
20 residential housing constructed in connection with the loan. This restriction shall
21 be recorded against the residential property with the applicable register of deeds and
22 shall run with the land.

23 c. With respect to each loan under this subsection for workforce housing or
24 senior housing intended for rent, that the owner of the rental housing, for a period
25 commencing on the date of the loan and concluding 10 years following initial

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1 occupancy of all of the rental units constructed in connection with the loan, shall
2 annually submit to the authority a certified rent roll for the housing that sets forth
3 for each rental unit the monthly rent required under the lease, the actual monthly
4 rent received for the preceding year, and an identification of the utilities and their
5 amounts included in the rent. This restriction shall be recorded against the
6 residential property with the applicable register of deeds and shall run with the land.
7 The authority shall use the information provided under this subd. 1. c. to confirm
8 that the rental housing continues to meet the housing costs limitation for purposes
9 of sub. (1) (h) and (i) 1. The authority shall calculate the applicable monthly
10 limitation on housing costs for each year by dividing the area median income for the
11 year by 12, with family size determined using the federal imputed income limitation,
12 as defined in 26 USC 42 (g) (2) (C). If in any year the area median income has
13 decreased compared to the prior year, the applicable housing cost limitation shall be
14 calculated based on the most recent area median income information prior to such
15 decrease.

16 d. With respect to each loan under this subsection for workforce housing or
17 senior housing intended to be owner-occupied, that for the 10-year period
18 commencing immediately after the developer closes on the sale of the housing to the
19 initial owner-occupier, the housing shall remain owner-occupied and may not be
20 sold for a price that exceeds the price charged by the developer to the initial
21 owner-occupier, adjusted annually by the average compounded annual percentage
22 increase in the sale price of all residential housing in the county in which the housing
23 is located, as determined by the authority. These restrictions shall be recorded
24 against the residential property with the applicable register of deeds and shall run
25 with the land.

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

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

- 8 1. Credit risk, collateral, and the need for a loan guarantee.
- 9 2. The estimated reduction in housing costs.
- 10 3. The need for workforce housing or senior housing in the area.

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

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

17 (a) A statement of the condition and balance of the commercial-to-housing
18 conversion revolving loan fund.

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

- 21 1. The date, amount, amortization period, and current status of the loan.
- 22 2. An identification of the developer receiving the loan.
- 23 3. A description of the eligible project funded with the loan, including whether
24 the project is for workforce housing or senior housing.

