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League Summary of Housing Bill Package

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On Tuesday, September 23rd, a group of Republican legislators led by Representative Rob Brooks (R-Saukville) held a news conference in the State Capitol to unveil seven housing bills. These proposals moved rapidly through the process, with a public hearing in the Assembly Committee on Housing and Real Estate just one week later on Tuesday, September 30th. The Assembly Committee voted on these bills on Thursday, October 2nd. Many of these bills were voted on by the full Assembly on Tuesday, October 7th and are now scheduled for a public hearing in the Senate on Wednesday, October 15th. Below is a summary of each of these proposals, adopted amendments, and legislative actions on these bills.

Assembly Bill (AB) 449 / Senate Bill (SB) 473: Local Regulation of Accessory Dwelling Units

Rep. Goeben (R-Hobart) and Sen. Bradley (R-New Berlin)

Bill Overview:

- This bill allows each single-family residence in Wisconsin to have a permitted (by-right) use of an accessory dwelling unit (ADU). In other words, local governments may not ban ADUs.
  - An ADU is defined as a complete independent living facility for one or more persons that has a separate entrance from the existing single-family dwelling. An ADU may be within, attached to, or detached from a single-family dwelling.
- Any local ordinance shall allow at least one ADU on each parcel zoned for residential use or mixed use on which an existing single-family dwelling is located. A municipality may not require a conditional use, variance, or special review or approval to create or host an ADU.
- While ADUs may not be banned, local ordinances may be created to regulate any of the following:
  - Limit the size of an ADU to no larger than the square footage of the existing single-family structure on the same parcel,
  - Limit the height of an ADU to not greater than the maximum height allowed in the zoning district, except if the ADU is a conversion of an existing legal nonconforming structure,
  - Require that an ADU satisfy current setback and lot coverage requirements, and
  - Prohibit an ADU established after the effective date of the legislation from being utilized as a short-term rental.
- If the bill is passed and signed into law by the Governor, the new restrictions would take effect on the first day of the seventh month after publication.

Amendment Overview:

- Assembly Amendment 1 (AA1) clarifies that a permitted use of an ADU may only be created by converting an existing structure that is within, attached to, or detached from a single-family dwelling. In other words, a by-right ADU may not be a new structure under this legislation.

Legislative Actions:

- The Assembly Committee on Housing and Real Estate recommended AA1 for adoption on an 8-6 vote and recommended AB 449 as amended for passage on a 13-1 vote.

- AB 449 was scheduled to be voted on by the full Assembly during a floor session on Tuesday, October 7th but no action was taken. It is now expected that AB 449 may be taken up by the full Assembly during a floor session on Tuesday, October 14th.

- The Senate Committee on Insurance, Housing, Rural Issues and Forestry has scheduled a public hearing on SB 473 on Wednesday, October 15th.

AB 450 / SB 475: Delayed Implementation of the New Commercial Building Code

Rep. Penterman (R-Hustisford) and Sen. Hutton (R-Brookfield)

Bill Overview:

- On September 1st, the Wisconsin Department of Safety and Professional Services (DSPS) published the revised Commercial Building Code (CBC) that incorporates 2021 International Building Code (IBC) standards. This rule replaces the 2015 IBC standards as Wisconsin's CBC. While published, DSPS has delayed the implementation of these new standards to November 1st.
- This bill further delays the effective date of the new CBC incorporating 2021 IBC standards until April 1, 2026. Any plans for commercial buildings including multi-family residential that are submitted to the state or a local government delegated to review commercial building plans by April 1, 2026 would continue to utilize the 2015 IBC standards in Wisconsin's former CBC.

Legislative Actions:

- AB 450 was approved by the full Assembly on a voice vote on Tuesday, October 7th.
  - Prior to action on the floor, the Assembly Committee on Housing and Real Estate recommended AB 450 for passage on a 9-5 vote.
- SB 475 was referred to the Senate Committee on Licensing, Regulatory Reform, State and Federal Affairs.

AB 451 / SB 480: Workforce Housing Tax Incremental Districts

Rep. Armstrong (R-Rice Lake) and Sen. Feyen (R-Fond du Lac)

Bill Overview:

- Currently, options to utilize tax incremental financing (TIF) to promote housing are insufficient. With prohibitions on TIF for newly-platted residential, a 35% cap on residential in mixed-use tax incremental districts (TIDs), and a maximum of 12% of a municipality's equalized value in TIDs, TIF is a powerful tool to promote economic development but has limited utility for housing.
- This bill creates a new TIF structure for residential developments. Referred to as "Workforce Housing TIDs," these TIDs would not be subject to the 12% limit and instead would have a new 3% limit of the municipality's equalized value for these developer-financed TIDs.
- To create a Workforce Housing TID, a municipality would adopt a resolution designating the district and finding that it complies with statutory requirements on the eligible expenses and development restrictions, both of which are detailed below. Similar to existing TIDs, a Joint Review Board consisting of representatives from each property tax-charging jurisdiction in the area of the proposed district must be convened and approve the TID's creation.
- To qualify, a residential development must comply with the following characteristics:
  - The project must consist entirely of owner-occupied single-family or duplex residences,
  - The lot size must be 7,500 square feet or less for single-family residences or 15,000 square feet or less for duplex residences,
  - Lot widths must be 70 feet or less and lot setbacks must be no greater than 10 feet, and

  - Single-story residences must be no larger than 1,500 square feet and two-story residences must be no larger than 2,000 square feet.
- Developer-financed eligible project costs in the Workforce Housing TID must only include costs related to the construction or improvement of infrastructure necessary for residential developments within the district. These costs may include development-related stormwater costs.
- A project plan may not be amended to increase the project costs of the TID within ten years of the unextended termination date of the district unless the Joint Review Board approves the plan amendments and cost increases by a unanimous vote. A Workforce Housing TID may not be a donor district or receive increments from donor districts in the municipality.

Amendment Overview:

- AA1 makes numerous largely technical changes to AB 451, including:
  - Allowing towns with territory in a sewer service area to create Workforce Housing TIDs if the area currently has or will have sewer service in the new residential development,
  - Clarifying that Workforce Housing TIDs are not subject to the current law restrictions on the use of TIF funding for newly-platted residential developments,
  - Setting the maximum lifespan of a Workforce Housing TID to 20 years with the possibility of an extension by the Joint Review Board of up to three years,
  - Allowing duplex developments to have a lot width of up to 80 feet,
  - Clarifying the steps a municipality must take if the Department of Revenue determines that a Workforce Housing TID would exceed the 3% of equalized value threshold, and
  - Delaying the implementation of Workforce Housing TIDs to October 1, 2026.
- AA2 changes the first bullet above to instead require a town to operate their own sewerage system or have a sanitary district within the town to qualify to create a Workforce Housing TID. All other changes to AB 451 from AA1 that are listed above are included in AA2.

Legislative Actions:

- AB 451 as amended by AA1 and AA2 was approved by the full Assembly on an 88-7 vote on Tuesday, October 7th.
  - Prior to action on the floor, the Assembly Committee on Housing and Real Estate recommended AB 451 as amended by AA1 for passage on a 12-2 vote.
- The Senate Committee on Insurance, Housing, Rural Issues and Forestry has scheduled a public hearing on SB 473 on Wednesday, October 15th.

AB 452 / SB 479: Subdivision Plat Approvals and Requirements

Rep. Kreibich (R-New Richmond) and Sen. Feyen (R-Fond du Lac)

Bill Overview:

- Chapter 236, Wis. Stats., governs approval for the platting of lands and recording of those plats. This bill makes several changes to that chapter as detailed below.
- *Sections 1 and 8* - Current law governing the purpose and intent of this chapter look, in part, to prevent the overcrowding of land and the undue concentration of population and to lessen congestion on streets and highways. This bill strikes those purpose and intent statements, instead adding statements to foster the development of a range of housing types and promote complete streets that prioritize safety, comfort, and accessibility for a range of transportation options.
- *Section 2* - This bill creates a "pre-submission conceptual review" process wherein a subdivider may request the opportunity to informally meet with a local government before they submit a preliminary plat for approval. A local government would provide their conceptual review

regarding the proposed subdivision and opinions on whether it complies with local requirements and conditions. These meetings are not binding on the local government or the subdivider.

- *Sections 3 and 4* - Current law allows a subdivider to submit a preliminary plat prior to submitting a final plat. The local government has 90 days to approve, approve conditionally, or reject the preliminary plat and explain their conditions or reasons for rejection. This bill allows a subdivider to submit preliminary plans and reports regarding sewer, water, road cross-sections, grading, stormwater, soil testing, landscaping, and street lighting along with a preliminary plat. The preliminary plat may not be rejected on the basis that the plans and reports are not final, but the plat may be approved conditionally with the conditions described in writing.
- *Section 5* - Local governments are currently allowed either to: 1) require a subdivider to install any reasonably necessary public improvements prior to preliminary or final plat approval; or 2) require the subdivider to provide security at the commencement of a project in an amount up to 120% of the total estimated cost. This bill removes the first option, thereby only allowing a requirement for financial security of public improvements. Local governments would be expressly prohibited from requiring that public improvements are installed or accepted as a condition of submission, review, approval, or recording of a preliminary or final plat.
- *Section 6* - Current law states that, upon substantial completion of public improvements, any outstanding local building permits that are related to and dependent upon substantial completion shall be released. This bill clarifies that the requirement applies to "each home site on the plat."
- *Section 7* - The bill requires that, subject to the register of deeds office accepting an approved plat, a final plat that was approved is entitled to be recorded and the clerk of that local government shall make a certificate to that effect within 10 days of a subdivider's request.
- *Sections 9 and 10* - The requirements of Sections 3, 4, and 5 would first apply to a plat submitted on the effective date of the legislation. The effective date would be the first day of the seventh month after publication should the bill pass the legislature and be signed into law.

Amendment Overview:

- AA1 incorporates the following changes into the above sections:
  - *Section 5:* Clarifies that nothing prohibits local governments from requiring as a condition of plat approval that public improvements are installed within a reasonable timeframe.
  - *Section 6:* Clarifies that building permits must only be released if they meet the requirements of building codes, zoning ordinances, and other municipal regulations.
  - *Section 7:* Clarifies that a subdivider that requests a certificate on an approved plat must submit the required affidavits of an approved plat under current law.

Legislative Actions:

- AB 452 as amended by AA1 was approved by the full Assembly on a voice vote on Tuesday, October 7th.
  - Prior to action on the floor, the Assembly Committee on Housing and Real Estate recommended AB 451 as amended by AA1 for passage on a 13-1 vote.
- The Senate Committee on Insurance, Housing, Rural Issues and Forestry has scheduled a public hearing on SB 479 on Wednesday, October 15th.

AB 453 / SB 472: Comprehensive Plans, Rezoning Requests, and Affordable Housing TID Extensions

Rep. Armstrong (R-Rice Lake) and Sen. Jagler (R-Watertown)

Bill Overview:

- This bill has four main components: 1) revising the comprehensive planning statutes to require the land use element to identify densities of areas intended for future residential development; 2) making those densities regulatory if a qualifying rezoning request is submitted for those identified areas; 3) defining newly platted residential for the purposes of tax incremental financing (TIF); and 4) increasing the affordable housing TIF extension to two-years.

1) Comprehensive Planning Changes

- *Sections 1, 2, 9, 12, and 18* - When comprehensive planning statutes were first effective in 2010, local governments received grants for the completion of their first plan. As funding was insufficient to fulfil all grant requests, the effective date of the comprehensive planning requirements were delayed for local governments that applied for but did not receive a grant. These sections delete obsolete references to this two-year delay from 2010 to 2012.
- *Section 3* - Given the requirement that certain land use ordinances are consistent with an adopted comprehensive plan (often referred to as the consistency requirement), the term "consistent with" was defined in statutes. This section deletes the definition of "consistent with" from statutes. This requirement is later redefined in Section 10 of the legislation described below.
- *Sections 4 and 5* - The land-use element of a comprehensive plan already requires that certain details are analyzed in the element and included in the corresponding land-use map. This includes assumptions of net densities. This section adds a requirement that for 20 years, in five-year increments, areas in which residential land use is projected must have minimum and maximum net densities specified in residential units per acre for each area and increment. These determinations of net density must exclude wetlands, floodplains, and government-owned land.
- *Sections 6 and 7* - Current law states that while certain land use ordinances must be consistent with a comprehensive plan, the enactment of a comprehensive plan does not make the plan itself a regulation. These sections specify that the new net density requirements for land identified for future residential development in the land-use element (described in the bullet above) are regulatory in nature, though the remainder of a plan is treated the same as current law.
- *Sections 8 and 10* - Amending the consistency requirement of current law, these sections specify that an enacted or amended land use ordinance is consistent with the comprehensive plan if the ordinance permits the use expressly identified in the land use map and corresponding land use category descriptions. An ordinance is not inconsistent with a comprehensive plan solely because it permits additional land uses beyond those identified in the map and category descriptions.
- *Section 11* - If a local government enacts or amends any land use ordinance or adds land by annexation or consolidation that is intended for residential use, the local government must:
  - Ensure the comprehensive plan includes the minimum and maximum densities of future residential development in identified areas described in Sections 4 and 5, and
  - Ensure those residential net density standards are incorporated into the ordinance.

  If a person submits a request for the rezone of a parcel (next section) and the minimum and maximum net densities are not included in the comprehensive plan, the local government shall amend their comprehensive plan within 180 days to include the densities. The procedures in s. 66.1001 (4) for a comprehensive plan, including public notice and comment, do not apply to a comprehensive plan update commenced under this process due to the compressed timeline.

2) Approval of Rezoning Requests

- *Sections 13 and 14* - In these sections, if a person submits a request for a zoning classification change required to proceed with a residential housing development and all elements described below are satisfied, the local government is required to grant the request within 60 days:
  - The proposal is for an area identified in the comprehensive plan for residential land use,

- The proposal is for an area that is contiguous to existing development,
- Either the proposal falls within the minimum and maximum net density of residences identified in the comprehensive plan for the current five-year increment or the comprehensive plan does not include the densities required under Section 5 of the bill, and
- The housing supply in the local government does not meet existing housing demand or forecasted demand within the next five years, as identified in the comprehensive plan.

If a person filing the request specifies their preference for a zoning classification in the local government's zoning ordinance and a request is granted, the land subject to that request shall be reclassified to the person's preference. If the person filing the request did not specify their preference for a zoning classification but did specify their preference for requirements including building setbacks, lot widths or frontage, lot sizes, and building sizes or bulks, those preferences shall be granted along with the least restrictive requirements in the local zoning ordinance.

Local governments may reject requests that fail to identify the proposed minimum and maximum net density of residences in the proposed development. A request may also be rejected if the local government demonstrates that a request would result in a shortage in or overburdening of public facilities in the local government or to address a significant threat to public health or safety.

- *Sections 15 and 16* - Under current law, a person aggrieved by a local government failing to approve a permit for a residential housing development may seek relief from the courts. These sections expand that relief to a local government failing to approve a rezoning request under the bullet above and entitles the person to seek recovery of court costs and reasonable attorney fees.
- *Section 17* - In this section, if a local government issues a request for proposals (RFP) for a residential development that is reasonably expected to receive water and sewer services on land that is not environmentally contaminated and no person responds to the RFP, the process in Section 14 does not apply in that local government for one year from the end of the RFP. A response under this section may include a response in writing from a developer explaining the person's economic reasons for not submitting a proposal in response to the RFP.
- *Section 22* - The new requirements for granting rezoning requests in Section 14 would first apply to a request made on the effective date of the bill (see below) if it were to become law.

3) Newly Platted Residential Definition

- *Section 19* - The legislature prohibits the use of TIF for newly platted residential development to prevent mixed-use or other TIDs from extending into greenfield development. However, a lack of clarity in the law has led to an interpretation that newly platted includes redevelopment sites where blight was removed and the land was replatted for new development. This section clarifies that newly platted residential development means the parcel has not previously been the site of permanent structures other than structures used solely for agricultural purposes. The goal is to codify the initial intent to allow redevelopment to promote additional housing options in TIDs.

4) Affordable Housing TIF Extension

- *Section 20* - Current law allows municipalities to extend the lifespan of a TID by one-year and use the increments on housing. At least 75% of the funds generated must be used to benefit affordable housing in the city, with the remaining funds used to improve the city's housing stock. This section increases the affordable housing TID extension to two years.
- *Section 21* - This section requires that all increments generated by an affordable housing TID extension are expended to purchase services or goods from for-profit entities.

5) Effective Date of the Bill

- *Section 23* - If passed and signed into law, this legislation would take effect on January 1, 2028.

Amendment Overview:

- AA1 amends Section 14 to remove a requirement that the proposed area is contiguous to existing development, instead stating that the area must be adjacent to or in close proximity to existing development so the area may be reasonably served by existing infrastructure and public services.
- AA2 removes Section 21 from the bill, allowing the two-year affordable housing TID extension to be utilized in accordance with current law requirements without new requirements.
- AA4 amends Section 14 to remove the ability of a rezoning requester to create new setback, lot size and width, and building size requirements to fit their project. A person filing a qualifying rezoning request may still choose their preferred applicable zoning classification but may not create their own standards.
- AA5 specifies that the provisions related to the net density ranges in a comprehensive plan, new consistency requirements for a comprehensive plan, and mandatory rezoning requests do not apply to a town or county. Further, this amendment requires a person filing a rezoning request to certify that the land is not subject to farmland preservation agreements or zoning or an agricultural enterprise area designation. If it is, the land may not be rezoned under this process.

Legislative Actions:

- AB 453 as amended by AA1, AA2, AA4, and AA5 was approved by the full Assembly on a 55-39 vote on Tuesday, October 7th.
  - Prior to action on the floor, the Assembly Committee on Housing and Real Estate recommended AB 451 as amended by AA1, AA2, and AA4 for passage on a 9-5 vote.
- The Senate Committee on Insurance, Housing, Rural Issues and Forestry has scheduled a public hearing on SB 472 on Wednesday, October 15th.

AB 454 / SB 476: Workforce Home Loan Program

Reps. Rodriguez (R-Oak Creek), Snyder (R-Weston), Knodl (R-Germantown), and Rivera-Wagner (D-Green Bay) and Sens. James (R-Thorp) and Johnson (D-Milwaukee)

Bill Overview:

- This bill creates a "Workforce Home Loan Program" at the Wisconsin Housing and Economic Development Authority (WHEDA). These loans would provide gap financing that supplement a conventional mortgage for the purchase of a new or remodeled single-family residence.
- Residents would be eligible for a loan if they have not owned property in the past three years, have an annual household income equal to or less than 100% of the county's median income, and certain other requirements on credit score, debt-to-income ratio, and financial reserves are met.
- Loans may be issued for a period of 15 or 30 years, depending on the applicant's income, with a 0% interest rate. These loans could be up to $60,000, with the cap adjusted annually for inflation.
- The bill provides $10 million from the $525 million workforce housing fund established in the 2023-2025 State Budget to fund the four programs created by 2023 Acts 14, 15, 17, and 18.

Amendment Overview:

- AA1 changes the amortization length of a loan for an applicant with an income between 80% and 100% of the area median income from 30 years to 15 years, matching the loan length in AB 454.
- AA3 makes several technical changes to AB 454, including: 1) removing reference to substantial rehabilitation, meaning only new build homes qualify for these loans; 2) prohibiting WHEDA from charging any fee in connection with the issuance of a loan; 3) referencing a federal publication for determination of the area median income; and 4) clarifying WHEDA underwriting guidelines.

Legislative Actions:

- The Assembly Committee on Housing and Real Estate recommended AA1 for adoption on a 14-0 vote and AA3 for adoption on a 14-0 vote. The committee recommended AB 454 as amended for passage on a 14-0 vote. It is not currently scheduled for action before the full Assembly.
- The Senate Committee on Insurance, Housing, Rural Issues and Forestry has scheduled a public hearing on SB 476 on Wednesday, October 15th.

AB 455 / SB 481: Condominium Conversion Reimbursement Grant Program

Rep. Murphy (R-Greenville) and Sen. Feyen (R-Fond du Lac)

Bill Overview:

- This bill creates the "Condominium Conversion Reimbursement Grant Program" at the Wisconsin Housing and Economic Development Authority (WHEDA). This program will provide up to $50,000 in reimbursement for costs to convert multifamily housing to condominiums.
- Eligible reimbursement grant costs for the property owner include reasonable attorney fees, state and local permitting fees, and any other cost incurred for the grant project.
- The bill provides $10 million from the Restore Main Street Loan Program created last session.

Amendment Overview:

- AA2 allows a qualifying project by a housing cooperative to qualify for the grant program.
- AA3 requires the recipient of a grant to provide occupants of the multifamily housing unit being converted into condominiums the opportunity to purchase the unit they currently occupy.
- ASA1 incorporates the requirements AA3 and removes "any other cost incurred for the grant project" from the list of eligible costs for grant recipients.

Legislative Actions:

- AB 455 as amended by ASA1 was approved by the full Assembly on a voice vote on Tuesday, October 7th.
    - Prior to action on the floor, the Assembly Committee on Housing and Real Estate recommended AB 455 as amended by AA2 and AA3 for passage on a 12-2 vote.
- The Senate Committee on Insurance, Housing, Rural Issues and Forestry has scheduled a public hearing on SB 476 on Wednesday, October 15th.