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Deep Dive into New Housing Development Changes

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Housing has been a hot topic in the State Capitol as Wisconsin's housing availability and affordability crisis continues in communities of all sizes throughout the state. Hearing from members about a desire to continue their work to partner with developers to address municipality specific housing demands, the League Board of Directors approved housing as one of the five pillars in our [2025-2026 Legislative Agenda].

Dozens of bills related to housing were introduced in the 2025-2026 Legislative Session, many of which focused on promoting "missing middle" housing for the workforce and seniors. While not every bill introduced will make it through the legislative process, many of these bills did, resulting in ten new laws, eight of which were supported by the League, that impact residential development.

The League has summarized these ten new laws in this Deep Dive, including:

Workforce Housing TIDs Expands 12% Rule

Tax incremental financing (TIF) is one of the few proactive economic development tools that Wisconsin municipalities have. However, TIF has historically been structured to promote commercial and industrial development, not residential. With [Senate Bill 480], now [2025 Wisconsin Act 235], that changes.

Act 235 allows municipalities to create Workforce Housing Tax Incremental Districts (TIDs). These TIDs would be developer-financed with eligible expenses limited to the construction or improvement of infrastructure necessary for dense new single-family or duplex residential developments, including administrative and professional services costs. While the act does not limit the costs to just this list, it could include roads, sidewalks, lighting, traffic signage, stormwater, water, and sewer infrastructure. It could *not* include the homes themselves or other development work on the individual residential lots.

Workforce Housing TIDs would be capped at 3% of equalized value of a municipality but are exempt from the current 12% threshold that current TIF law uses to limit the creation of new TIDs. To put this 3% figure in context, as an example, a Wisconsin municipality with about 12,500 residents has a total equalized value of $1.55 billion. 3% would be $46.5 million. In other words, $46.5 million would be available for Workforce Housing TIDs to promote residential development. The $46.5 million cap is calculated using the existing value of open Workforce Housing TIDs, if applicable, and the base value (not the projected final value) of the proposed TID. If this municipality was below that cap, the TID could be created.

This tool will be available starting on October 1st. While the legislation was signed into law, it has a delayed effective date, meaning it is not immediately available. A Workforce Housing TID under Act 235 could be created if the following conditions are met:

- the total value of all Workforce Housing TIDs does not exceed 3% of total equalized value of the municipality, the TID lifespan does not exceed 20 years, and the costs are limited to supporting the necessary infrastructure and certain related expenses,

- the development is for owner-occupied single-family or duplex residences that are 1,500 square feet or less for single story residences or 2,000 square feet or less for two-story residences, and

- the lot sizes and widths are not greater than 7,500 square feet and 70 feet for single-family or 12,500 square feet and 80 feet for duplexes and, for either, side setbacks are not greater than 10 feet.

In other words, the residential developments being promoted by Act 235 would be dense development and, in some municipalities, may require modifications to zoning codes or exceptions to those codes to become reality. Additionally, a municipality is required, either by ordinance or in the resolution creating the Workforce Housing TID, to specify the maximum amount of development-related fees that may be charged for development and any architectural and construction requirements that apply to the development.

Similar to other TIDs, a Joint Review Board (JRB) would be convened, and that JRB would have to determine the development could not occur "but for" the establishment of the TID. Different from existing TIDs, the project plan may not be amended after ten years without a unanimous vote of the JRB to approve those changes.

While Workforce Housing TIDs have the potential to assist in developing the "missing middle" housing in Wisconsin, it is worth cautioning that these dense developments are unlikely to have the same ending equalized value as large-scale developments in other TIDs (such as commercial, industrial, or mixed-use multifamily developments). Because the costs covered by the TID must be recovered in 20 years through the increment, a Workforce Housing TID will likely have to be viewed as part of a broader capital stack and not the complete solution to funding all public infrastructure costs within the new development.

Despite this caution, Workforce Housing TIDs are a new tool in the toolbox of available options for municipalities to incentivize developers to work together on advancing a range of housing options.

NIDs Expand into Residential Development

Neighborhood Improvement Districts (NIDs) have been in the statutes for over 20 years. However, this tool has only been utilized in the City of Milwaukee to date despite being available statewide. While NIDs have been underutilized, many more municipalities are familiar with Business Improvement Districts (BIDs) which have a very similar formation and governing process.

NIDs allow property owners in a defined district that is nearby but not necessarily contiguous to petition a municipality to institute special assessments on residential properties. The proceeds from the special assessments are governed by an operating plan approved by a municipality and instituted by a NID board but are generally used for neighborhood improvement. This includes community beatification, home revitalization, and public infrastructure improvements within the NID.

[2025 Wisconsin Act 120] is a substantial expansion of the NID tool to promote residential development. Many aspects of the NID tool overlap with Workforce Housing TIDs with some differences. The primary difference is that NIDs are not restricted to the type of development or the size limitations in the new residential TID law. Under a NID, multifamily housing or any type or size of single family or duplex developments could be part of this new tool.

A NID for residential development would be established upon petition by all landowners in the district, but it allows for a single landowner to be the petitioning party. Currently, NIDs may only be established with at least five unique property owners. Once a NID is established, it can fund infrastructure related to residential development. The NIDs cannot fund the residences themselves, but can fund public infrastructure like roads, sidewalks, lighting, street signage, water, sewer, stormwater, parks, and other associated costs.

The costs of this public infrastructure would be covered by the municipality or a developer (or a combination of the two) and recovered over time using special assessments on the current and future property owners. The time period for recovery is set by a petitioner and approved by a municipality. In other words, instead of a future homeowner paying the higher upfront cost of a home that includes their share of public infrastructure costs in the purchase price, that homeowner, and potential future homeowners if they sell before the special assessment expires, would pay for those costs annually overtime. The long term repayment of infrastructure costs lowers the purchase price and make the housing more affordable.

To ensure the awareness of future property purchasers (both the initial homebuyer but also subsequent purchasers during the special assessment lifespan), the special assessment would be included on a real estate disclosure form for all residential and vacant property within the district. While this real estate disclosure requirement has a slightly delayed effective date to allow for the forms to be updated, the NID tool takes effect immediately.

Modifications to WHEDA Housing Loan Programs

In the 2023-2024 Legislative Session, the Legislature invested $525 million in low-interest workforce housing loan programs at the Wisconsin Housing and Economic Development Authority (WHEDA). The [Infrastructure Access], [Restore Main Street], and [Vacancy-to-Vitality] Loan Programs were all designed to tackle holes in housing affordability by ensuring that financing gaps do not prevent missing middle, workforce and senior housing projects in cities and villages. However, barriers in the legislation to establish these programs have prevented these programs from being as widely utilized as supporters had hoped.

[2025 Wisconsin Act 237] makes significant improvements to the accessibility of these loans, ensuring more financing gaps are closed so that more Wisconsinites can afford to live in the communities they love. Most of the changes in Act 237 took effect immediately upon publication, with these changes including:

- *Stacking Financing* - Under the programs passed in 2023, the project could not be a beneficiary of TIF or Historic Tax Credits. This new law allows TIF and Historic Tax Credits to be stacked with these loans, making more projects more financially viable.

- *Financing Gaps* - Act 237 increases the maximum loan amounts that may be awarded per unit or per project. The previous and new maximum loan amounts are listed below:

    - Infrastructure Access Municipal Applicant:
        - *Before Act 237:* 10% of project costs
        - *After Act 237:* 25% of project costs

    - Infrastructure Access Developer Applicant:
        - *Before Act 237:* 20% of project costs

        - *After Act 237:* 33% of project costs

    - Restore Main Street (developers only):
        - *Before Act 237:* The lessor of $20,000 per unit or 25% of project costs
        - *After Act 237:* The lessor of $50,000 per unit or 33% of project costs

    - Vacancy-to-Vitality (developers only):
        - *Before Act 237:* The lessor of $1 million or 20% of project costs
        - *After Act 237:* 33% of project costs

- *Scaling to Size* - In Vacancy-to-Vitality, a minimum of 16 dwelling units were required to be built. This act lowers that to 4 dwelling units in municipalities with a population of 10,000 or less.

- *Development Patterns* - Also in the Vacancy-to-Vitality Program, this legislation allows mixed-use developments to qualify for financing, though restricts funding to only the residential development. Previously, mixed-use development was prohibited.

- *Interest Rates* - Act 237 limits the interest rate that may be charged in the program to one percent or less. Previously, WHEDA was allowed to charge market interest rates or less.

- *Municipal Restrictions* - Applicants to any program must work with the municipality to certify that the cost of the development has been reduced due to local changes. This new law specifies that:

    - Municipal requirements to have an updated housing element of their comprehensive plan may be satisfied by adopting a resolution or ordinance in the past five years certifying the housing element provides an adequate housing supply to meet existing and forecasted needs; and

    - Municipal requirements to lower the cost of housing must now apply municipality-wide, not just per project, but may be satisfied by demonstrating any cost saving measures adopted starting on January 1st, 2020, not 2023 as was previously in law.

- *Tribal Participation* - Act 237 allows projects to take place on tribal lands if the reservation or trust land was established prior to the passage of this legislation. Previously, the land must have been subject to property taxation upon completion of a project.

- *Regional Distribution* - The new law requires that WHEDA allocate no more than 12.5% of the total allocation for any of the three programs to any one regional planning commission area.

WHEDA has announced that applications for the latest round of financing are open now! All applications may benefit from the changes made in Act 237. **Applications are due by Friday, June 19th.** Learn more about these changes and see details on the Spring 2026 loan cycle on WHEDA's website.

"Truth in Planning" Impacts Zoning and TID

2025 Wisconsin Act 173, known as the Truth in Planning legislation. Act 173 results from developer concerns with comprehensive plans and creates a statewide process to alleviate localized concerns. After working with the authors and stakeholders to alleviate many municipal concerns from the initial draft of this legislation, the League held the position of neutral on the final proposal.

Act 173 has four separate components, all of which **do not take effect until January 1, 2028.**

Part 1
The first part of Act 173 amends comprehensive planning statutes. Comprehensive plans are outward looking 20-year plans prepared by municipalities and updated every ten years since the law first took effect in 2010. For this law, the relevant section of the nine elements is land use, including the land use map. Act 173 requires that minimum and maximum densities are identified in the land use map for each area defined as future use residential for each five-year period over the 20-year planning cycle.

The net densities are defined in residential units per acre, removing considerations for wetlands, floodplains, and government-owned lands. These net densities are considered a regulation, not a plan. As with current law, there is a consistency requirement, meaning that land use regulations may not be inconsistent with the comprehensive plan. This law amended this provision to state the land use map is included in the consistency requirement, but additional land uses are allowed for designated future use areas.

If the municipality enacts or amends any land use ordinance or adds land by annexation or incorporation intended for residential use, the municipality must add densities for that land to its comprehensive plan and ensure the densities are in their ordinances. If the municipality receives a request for a rezone of a parcel identified as future use residential and does not have densities defined in their comprehensive plan, the municipality has 180 days to amend their plan. Certain statutory procedures do not apply.

Part 2
The second part of Act 173 addresses rezoning requests of identified future use residential areas. This legislation requires that certain rezoning requests are granted within 90 days if the request aligns with the comp plan and statutory requirements are met. A developer may grant a 90-day extension. If a rezoning request is for an area identified in the comprehensive plan for future use residential and the densities of the rezoning proposal match the plan, a request is granted if:

- the area is contiguous to existing development; and
- the local government does not meet existing housing demand or forecasted housing demand within the next five years, as identified in the housing element of the comprehensive plan.

While granting the rezoning request is assumed under those conditions, municipalities may reject the request if they demonstrate at least one of the following:

- the proposal would result in a shortage in or overburdening of public facilities; or
- the proposal could create a significant threat to public health or safety.

The developer requesting the rezoning may state their preference for a zoning classification in local ordinances that meet their plan (e.g., R1, R2, etc.). This request for the specific zoning classification is granted if the rezoning request is approved under the conditions above and if the zoning classification allows for the type and density of development listed in the municipality's comprehensive plan for that area.

For municipalities having trouble attracting developers, they may issue a request for proposals (RFP) for residential development for an area that has or will have water and sewer services. If no person responds to the RFP, the rezoning process laid out above is suspended for a year. A response to the RFP may include a developer submitting in writing why the RFP is economically infeasible.

Part 3
The third part of Act 173 addresses long-standing misinterpretations of TIF limitations. Under current law, newly platted residential development is restricted to only 35% of mixed-use TIFs and not allowed at all in

blight, rehabilitation and conservation, or industrial TIFs. This is a significant restriction on promoting housing in TIF. Originally, this restriction was meant to limit TIF leading to urban sprawl with greenfield development. However, DOR has interpreted this provision to be any new plat, not just land that was previously unplatted. This interpretation does not just stop farm field development, it also stops infill development.

Act 173 creates a statutory definition of "newly platted residential development," with the definition reading: "residential development on a parcel that has not previously been the site of permanent structures other than structures used solely for agricultural purposes." This means that unless the property either previously had no structures (e.g., forest, farm field, vacant never developed land) or the only permanent structures on the site were solely agricultural, any TIF type can now promote housing development and mixed use TIDs can allow residential development outside the 35% restriction.

Part 4

The fourth and final part of Act 173 improves municipalities' ability to be proactive in housing. Under current law, municipalities may, by resolution of the local governing body, extend a TID that is set to close for one year and use that increment to promote housing. 75% of the funds generated must benefit affordable housing, while 25% can be utilized to improve the city or village's existing housing stock. This legislation will increase that one-year allowable extension to two years, allowing the generation of more funding.

It is worth, reiterating the points above, the new definition of newly platted residential development and the TIF change, have a delayed effective date and will only go into effect on January 1, 2028. Current law and interpretations will continue to apply in the interim.

Statutory Plat Approval Processes Amended

Similar to Act 173, [2025 Wisconsin Act 68] also responds to localized concerns from developers by amending Chapter 236 of the statutes which governs the platting of lands and recording of plats. The League worked with the authors and stakeholders to improve this legislation but ended with a neutral position on the bill.

First and foremost, Act 68 amends the legislative intent of the statute which is stating the purpose for its enactment. Prior law had statements such as preventing the overcrowding of land and undue concentration of population and to lessen congestion on streets and highways among other purpose statements. Act 68 now looks to foster the development of a range of housing types and to promote complete streets that prioritize safety, comfort, and accessibility for a range of transportation options.

Another notable change from Act 68 amends the available options to municipalities when addressing public improvements to a plat property. Prior to Act 68, local governments were allowed to require the installation of any reasonably necessary public improvements prior to plat approval. Act 68 now only allows local governments to approve plats conditionally on the agreement of the installation of public improvements and to require financial security of up to 120% of the estimated cost of public improvements. It is expressly stated that municipalities are not prohibited from requiring developers to install the public improvements so long as that requirement is not placed prior to plat approval.

Act 68 also encourages more collaboration and information sharing between a developer and municipality. This includes requiring municipalities to accept a subdivider's request for a non-binding pre-submission conceptual review on whether the subdivider's proposal complies with local requirements and conditions. These meetings are non-binding, allowing for a more collegial approach.

The legislation also 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. These plans may not be rejected on the basis that they are not final but may be conditionally approved with the conditions described in writing for further revision and final submission.

Act 68 includes a number of more technical elements as well. First, it requires that, upon substantial completion of public improvements, any and all outstanding local building permits compliant with local development regulations are released for each home on the plat. Second, it requires that a final plat that was approved is entitled to have a certificate to that effect on the face of the plat within 10 days of a request.

Act 68 has a delayed effective date of **July 1st, 2026.** Similar to the previous legislation, this means that while the law is signed, its requirements first apply to a plat submitted on or after July 1st for all provisions except the final two which apply to any plat starting in July.

Business Development Tax Credit Clean Up

2023 Wisconsin Act 143 allowed businesses to claim a Business Development Tax Credit of up to 15% of capital investments made in workforce housing or childcare programs for employees. While certainly well intended to get the business community more involved in the housing and childcare crisis across the state, the law was too narrow to practically allow participation from employers.

2025 Wisconsin Act 78 adds eligibility for contributions to third parties responsible for building or rehabilitating workforce housing or establishing a childcare program, including contributions to a local revolving loan fund. The new law also eliminates the requirement that the housing or childcare program only benefit the businesses' employees. All changes were in effect starting on January 1st of this year.

The Business Development Tax Credit is now a much more functional tool for employers to get involved in expanding their community's housing supply with the changes in Act 78.

Third-Party Wetland Delineation Program

The Department of Natural Resources had been operating a pilot program for wetland delineators, or the professionals that determine wetland boundaries for permitting decisions, to operate as private parties. For those looking to develop a site, identifying if wetlands exist and if so, where, is crucial for development to proceed. These third-party delineators are an efficient way to complete this step.

To help solidify the pilot program as a permanent program, 2025 Wisconsin Act 172 enacted the pilot into law. The law specifies qualification and continuing requirements, professional conduct, and the validity of delineations. While this may seem tangential to residential development, assured wetland delineators are a crucial step in the permitting and approval process, and this legislation ensures ongoing program success.

Changes to the State's LIHTC Program

Since 2017, the state has supplemented the federal 4% Low-Income Housing Tax Credit (LIHTC) program with a competitive state credit. The state credit, like the federal credit, is awarded based on criteria in the Qualified Allocation Plan. 2025 Wisconsin Act 236 makes changes to the state credit only.

The first change removes a requirement that projects are funded with tax-exempt bonds. This will expand the number of projects eligible for the program by growing the number of available financing options. The new law also requires WHEDA to allocate 35% of the state credits to projects in rural areas as feasible (i.e., as applications allow). Rural area is defined as any city, village, or town that is under 10,000 in population and is at least 10 miles from a city, village, or town with a population of at least 50,000.

The changes for the rural area allocation first apply when the next Qualified Allocation Plan is adopted, whereas the bond type changes in Act 236 first apply beginning at the start of 2025.

Allowing State-Only Historic Tax Credits

Similar to LIHTC, the state offers a tax credit for historic rehabilitation to match the federal tax credit. Historic Rehabilitation Tax Credits are often used in housing developments, particularly for low-income rehabilitation projects, to help close financing gaps and ensure a project may move forward.

2025 Wisconsin Act 238 allows applicants to claim the state tax credit without qualifying under the requirements and approvals of the federal tax credit. A party can still apply for both, but need not apply for both to receive the state credit. Act 238, along with some technical modifications, also replaces the $3.5 million lifetime per-parcel credit limit with that limit every 15 years for parcels certified as of July 1, 2018.

New Loan Program Closes Mortgage Gaps

2025 Wisconsin Act 239 reallocates up to $10 million from the three workforce housing loan programs mentioned above for a new Workforce Home Revolving Loan Program at WHEDA. Under the legislation, authorized lenders, housing authorities, and community-based organizations may certify individual homebuyers to receive a second mortgage from WHEDA to buy a new construction single-family home.

To qualify, the individual must show they have not owned a home in the last three years and that their income is 100% or less of the area median income, along with other generic underwriting requirements. If received, this second mortgage loan for gap financing may be up to $60,000 or 25% of the purchase price or fair market value of a home, and the loan will be interest free.

Loans may be for a period of 15 to 40 years, depending on the income of the homebuyer compared against the area median income, and the program will award loans through June 30, 2031. WHEDA is required by Act 239 to set aside 25% of funds for home purchases in cities, villages, or towns with a population density of no more than 2,500 individuals per square mile.