

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Workforce housing program.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to economic development; modifying the
2 community workforce housing program; amending definitions;
3 providing for grants; providing for loans to be converted
4 to grants; providing for administrative costs for servicing
5 loans; providing for rentals; providing for a report;
6 providing appropriations; and providing for an effective
7 date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 9-12-112(a)(vi)(A) and (B),
12 9-12-901(b)(iv) and (v)(intro) and (A)(XI) and (B)(IV) and
13 by creating new paragraphs (vi) through (viii), 9-12-902(a)
14 through (d), (g)(intro) and (i) and (k), 9-12-903(a) and

1 (b) by creating a new paragraph (vi) and renumbering (vi)
2 as (vii), 9-12-904(a)(intro) and 9-12-905(a) and (b) are
3 amended to read:

4
5 **9-12-112. Annual report and budget.**

6
7 (a) The council shall submit an annual report in the
8 manner provided by W.S. 9-2-1014 and using the benchmarks
9 prescribed in this act. In addition to the requirements of
10 W.S. 9-2-1014, included within the annual report shall be:

11
12 (vi) A summary of the total investments made by
13 the council under the workforce housing infrastructure
14 program under W.S. 9-12-901 through 9-12-905, including:

15
16 (A) The name of each grantee or borrower
17 and the amount of each grant or loan;

18
19 (B) An evaluation of the grant or loan
20 success in providing workforce housing infrastructure;

21
22 **9-12-901. Wyoming workforce housing infrastructure**
23 **program; purpose; definitions.**

1

2 (b) As used in this article:

3

4 (iv) "Workforce housing" means owner-occupied,
5 residential dwellings or rental units affordable to
6 families that have a gross income:

7

8 (A) At or below one hundred twenty percent
9 (120%) of the area median income; or

10

11 (B) At or below a maximum of one hundred
12 fifty percent (150%) of the area median income if the
13 council determines an increase in the maximum income is
14 necessary to accommodate the needs of an applicant which
15 has demonstrated that housing costs are high relative to
16 the ability to pay based on a comparison of area median
17 income to the cost of housing.†

18

19

***** WBC COMMENTS *****

- 20 1. Allowing rental units recognizes nation-wide changes in the mortgage industry
- 21 which make it more difficult to qualify for a loan. Also recognizes the input from
- 22 many communities that the lack of rental housing is a hindrance to workforce
- 23 development.
- 24 2. Current statute does not define the workforce income band. This language
- 25 inserted is from the adopted rules.
- 26 3. All other WBC programs have match established in rule, not in statute. The rules
- 27 cover how the match is calculated, what is acceptable match (cash, in-kind
- 28 contributions). There may be different match requirements within a program. For
- 29 instance, enhancement projects in the Business Ready Community program

1 require a 50% match, Readiness projects (business parks) require a 5% match for
 2 projects under \$250,000 and a 10% match for projects over \$250,000.

3 If the Legislature elects to include match requirements, here is suggested
 4 language based on rules for other WBC programs:

5 Planning Grants: \$25,000 maximum award with a 25% cash match required.

6 Infrastructure projects: Maximum grant awards are \$1,500,000 and shall
 7 require a minimum match of 10 percent of eligible project activity costs.

8 9-12-901 (b) (vi) "Match" means cash and/or in-kind contributions.
 9 Contributions must have value and must be applicable to the period to which the
 10 matching requirement applies and must be necessary for the project. Examples of
 11 in-kind contributions include: labor, materials, equipment, and real estate. In-
 12 kind contributions must be verifiable from the records of applicant. These records
 13 must show how the value placed on in-kind contributions was derived. Labor
 14 services will be reported using rates consistent with those ordinarily paid by the
 15 applicant or other employers for similar work in the same labor market. Donated
 16 supplies and equipment will be valued at market value at the time of donation.
 17 Loaned equipment will be valued at the fair rental rate of the equipment at the
 18 time of donation. The value of donated buildings or land will be established using
 19 a market value set by an independent appraiser.
 20

21 (v) "Workforce housing infrastructure" means
 22 publicly owned infrastructure to a workforce housing
 23 subdivision or development, and if determined by the
 24 council to be consistent with the purposes of this article,
 25 through a workforce housing subdivision or development. ~~To~~
 26 ~~be considered "workforce housing infrastructure" under this~~
 27 ~~article, the infrastructure shall be for a workforce~~
 28 ~~housing subdivision or development for which the political~~
 29 ~~subdivision making application under this article has~~
 30 ~~required, through zoning or otherwise, the inclusion of a~~
 31 ~~specified percentage or number of housing units at~~
 32 ~~specified maximum initial sale prices or to have a~~

1 ~~specified initially finished, maximum square footage.~~ In
2 addition, the following shall apply:

3

4 (A) "Workforce housing infrastructure"
5 includes:

6

7 (XI) Other infrastructure determined
8 by the council to be consistent with the purposes of this
9 article and as required by the political subdivision making
10 application under this article through zoning or otherwise.

11

12 (B) "Workforce housing infrastructure"
13 shall not include:

14

15 (IV) Financing any project that ~~does~~
16 will not provide for the construction of additional housing
17 units or that involves rehabilitation or expansion of
18 existing infrastructure unless the council determines the
19 rehabilitation or expansion is necessary to meet the
20 purposes of this article;

21

22

***** WBC COMMENTS *****

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This relates to the planned workforce subdivision incentive—Like business parks, not all subdivisions will immediately fill up. However, the diligence will have been done to ensure community capacity, community growth, etc.

1 (vi) "Convertible loan" means a portion of the
 2 loan may be converted to a grant, if within a designated
 3 period of time, as established by rules and regulations,
 4 the development has generated workforce housing occupied by
 5 owners according to performance measures submitted by the
 6 applicant with the application and approved by the state
 7 loan and investment board;

8
9 ***** WBC COMMENTS *****

10 This concept of a forgivable loan or a convertible loan is borrowed from an under-
 11 utilized component of the Community Development Block Grant Program. In
 12 that federally funded program, a portion of the loan is converted to grant for each
 13 job created.

14
15
16 ***** STAFF COMMENTS *****

17 **This requirement excludes rental units from**
 18 **counting toward convertible loan requirements.**
 19 **The WBC noted rental units could be included but**
 20 **were excluded for the following reasons:**

- 21
- 22 1. Prior Legislative preference for owner-occupied housing;
- 23 2. Occupancy of owner-occupied units may be a more long-term and "solid"
- 24 demonstration of consideration having been met. Consideration being met is what
- 25 is required to fulfill the contract. Obligations to the extent money is given/granted
- 26 not required by the initial contract – it is a gift.
- 27 3. Administrative follow up and compliance may be more easily accomplished
- 28 with owner-occupied housing than with rentals. Owner-occupied housing
- 29 presents a more certain guarantee of occupancy.
- 30

31 **The term is defined, but not used in the**
 32 **legislation. The substantive provisions are**
 33 **repeated below. Thus it appears this should be**
 34 **deleted. The WBC agrees with that comment but**
 35 **wanted it included for the Committee's review.**
 36

1 (vii) "Workforce subdivision" means a housing
 2 subdivision for which the developer has committed a
 3 specific number of workforce housing units;

4
 5 ***** WBC COMMENTS *****

6 The distinction between "Workforce Subdivision" and "Planned workforce
 7 Subdivision" is comparable to the distinction between a BRC "Business
 8 Committed" project and a BRC "Community Readiness" project.
 9

10 (viii) "Planned workforce subdivision" means a
 11 development which the political subdivision making
 12 application under this article has planned for or required,
 13 through zoning, or other regulatory means, a specified
 14 percentage or number of workforce housing units at
 15 specified maximum initial sale prices or to have a
 16 specified initially finished, maximum square footage.

17
 18 ***** WBC COMMENTS *****

19 The intention is that if a community has specifically planned—through its
 20 comprehensive land use plan, zoning, or other regulatory tools, neighborhoods or
 21 areas of town primarily intended for workforce housing, then they could be
 22 supported by this program.
 23

24 **9-12-902. Wyoming workforce housing infrastructure**
 25 **program; creation; rulemaking.**

26
 27 (a) The council shall establish and administer a
 28 Wyoming workforce housing infrastructure program as
 29 provided by this article. Any city, town, county or

1 special improvement district may submit an application to
2 the council for a grant or loan under the program on forms
3 prescribed by and subject to rules promulgated by the
4 council. Grants or loans may be applied for by a joint
5 powers board with the approval of all participating
6 agencies to the joint powers agreement. Grants or loans
7 may be made by the council for planning to develop or
8 modify codes and ordinances in support of workforce
9 housing, planning subdivision regulations that encourage
10 workforce housing development, planning to enable a
11 community to conduct a land re-use study of a parcel of
12 land or real estate that is planned, at least in part, to
13 provide for workforce housing, workforce housing
14 infrastructure projects, planned workforce housing
15 infrastructure projects and community land trust projects.
16 In adopting rules and making grants and loans under this
17 article the council shall require all projects to be
18 related to workforce housing infrastructure, planned
19 workforce housing infrastructure projects or community land
20 trusts.

21

22

***** WBC COMMENTS *****

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25

This language is taken largely from Community Development Block Grant rules for the Wyoming Community Development Authority Housing Program. Those rules allow for up to five \$10,000 grants for planning for “affordable” housing

1 (80% area media income vs. the goal of this program which is 120% area median
 2 income.) Unfortunately, HUD rules cap the amount of funding the WBC and
 3 WCDA can use for administration and planning. Though the rules allow for
 4 \$50,000 in total awards, there is less than \$20,000 available to WCDA for grant
 5 administration and planning grants. Few planning grants for housing have been
 6 awarded.
 7

8 (b) Loans may be made at zero interest rate, up to an
 9 annual interest rate equal to the average prime interest
 10 rate as determined in accordance with subsection (e) of
 11 this section. The council shall establish criteria for
 12 determining the maximum grant and loan amounts subject to
 13 final approval by the state loan and investment board.
 14 Grants shall be matching grants as determined by rules and
 15 regulations. Grants shall be made only if the applicant
 16 demonstrates that upon receipt of the grant all projected
 17 project costs the applicant is responsible for providing
 18 for the planned workforce housing neighborhood or area,
 19 through zoning, land use plans or other regulatory matters,
 20 will be funded.

21

22 ***** WBC COMMENTS *****

23 What this is trying to get at is that the community has all its funding in place for
 24 all infrastructure necessary to make land available for future workforce housing
 25 development.

26

27 ***** STAFF COMMENTS *****28 **There is no minimum match requirement as drafted.**29 **The WBC notes that:**

30

31 Neither the Business Ready Community nor the Community Facility Program
 32 have match amounts established in statute, only in rule. Also see Comment #3 on
 page 3.

1
2

3 (c) Loans shall be made under this article, only if
4 the applicant demonstrates that upon receipt of the loan,
5 all projected project costs for the workforce subdivision
6 will be funded. Portions of loans may be converted to a
7 grant, as prescribed by the council in rule, if within a
8 designated period of time, as established by the council,
9 the development has generated workforce housing occupied by
10 owners according to performance measures submitted by the
11 applicant with the application and approved by the state
12 loan and investment board. Loans or grants for one (1)
13 project may not exceed a maximum annual amount established
14 by rule of the council, unless the project is phased over
15 more than one (1) year. ~~Multi year projects may be awarded~~
16 ~~up to the maximum annual amount each year,~~ Successive
17 grants or loans may be made to phased projects for a period
18 not to exceed three (3) years, provided the council
19 determines that previously funded phases have realized the
20 performance measures as approved by the state loan and
21 investment board. The application shall identify the
22 source of all funds to be used for the project.

23
24
25***** STAFF COMMENTS *******This segregates grants and loans, with loans used
only for housing projects and grants for planned**

1 **housing projects. That is the proposal for this**
2 **draft, with the following explanation from the**
3 **WBC:**
4

5 That is the intent of this proposal. Using Business Ready Communities as a
6 guide:

- 7 • “planned housing projects” the equivalent of “housing readiness projects”.
- 8 Grants enable communities to proactively direct and encourage future growth.
- 9 • “housing projects” are the equivalent of “developer committed projects”.
- 10 Loans help reduce infrastructure costs so units can be sold at a rate affordable
- 11 to a working class.
- 12

13 That said, there are other permutations that come to mind:

- 14 • Convertible loans for planned housing projects
- 15 • Grants for housing projects.
- 16

17 ***** WBC COMMENTS *****

18 This is intended to clarify “multi-year” projects. The same language has
19 developed some confusion with the BRC program.
20
21

22 (d) Grants and loans may be used to fund project
23 costs in accordance with approved applications and rules of
24 the council. Grants and loan funds may be used to contract
25 with community development organizations, state development
26 organizations and nonprofit organizations in accordance
27 with the purposes of this article and approved
28 applications.
29

30 (g) Grants, loans and loan commitments or any
31 combination thereof shall be made under this article only:
32

1 (i) If there are sufficient funds in the
2 workforce housing infrastructure program account to fully
3 fund it and all other outstanding grants, commitments and
4 loans;

5

6 (k) After approval of ~~loans~~ a grant or loan, the
7 applicants shall report to the council, as required by the
8 approved application. The report shall include:

9

10 (i) The progress of the project until the
11 construction of the project is completed;

12

13 (ii) The progress realizing performance
14 measures, including, but not limited to, the number of lots
15 developed for workforce housing, the number of workforce
16 housing or rental units to be developed with consideration
17 of the percentage of critical workforce housing needs in
18 the community to be served, the number of families
19 occupying workforce housing, or other performance measures
20 as identified by the applicant and approved by the state
21 loan and investment board;

22

1 ~~(ii)~~ (iii) Any additional information required by
2 the council to ensure compliance with loan requirements or
3 compliance with this article.

4
5 ***** WBC COMMENTS *****

6 Emphasis on locally defined performance measures. These are used to gauge
7 project success, determine eligibility for convertible loans, and successive grants
8 for future phases.
9

10 **9-12-903. Council duties; actions on grant and loan**
11 **applications.**

12
13 (a) All complete applications to participate in the
14 program established under this article, which conform with
15 the criteria established by law and rules promulgated under
16 this article and which are submitted to the council, shall
17 be considered by the council. The council shall approve or
18 disapprove each application considered in accordance with
19 this article and rules promulgated by the council. All
20 loans, grants or cooperative agreements made under this
21 article shall be referred by the council to the state loan
22 and investment board for final approval or disapproval. The
23 state loan and investment board may adopt rules as
24 necessary to implement its duties under this article.

25

1 (b) In adopting rules and making funds available
2 under this article, the council shall provide a competitive
3 application and scoring system adequate to measure the
4 benefits of each application. The application scoring
5 system shall target the projects based on ranking criteria
6 which address:

7
8 (vi) The extent to which the applicant has made
9 regulatory changes, code modifications, subdivision
10 regulations, land reuse studies of parcels of land or real
11 estate that is planned, at least in part to provide for
12 workforce housing according to workforce housing community
13 and economic development plans to encourage workforce
14 housing development and construction;

15
16 ***** WBC COMMENTS *****

17 This criteria is aimed at rewarding those communities that have actively
18 accomplished regulatory changes (such as decreased requirements for lot size or
19 street widths), intended to encourage workforce housing.
20

21 ~~(vi)~~ (vii) Any other criteria determined by the
22 council to be consistent with the purposes of this article.
23

24 **9-12-904. Community land trusts; eligibility;**
25 **requirements.**
26

1 (a) Grants and loans made under this article for
2 community land trusts, in addition to meeting other
3 requirements of this article, shall require that:

4
5 **9-12-905. Wyoming workforce housing infrastructure**
6 **program account.**

7
8 (a) There is created the workforce housing
9 infrastructure program account. Funds shall be credited to
10 the account as provided by law. Except as provided in
11 subsection (b) of this section, funds in the account shall
12 be used only upon legislative appropriation for cooperative
13 agreements and loans authorized to be made under this
14 article. All funds including any earned interest and
15 repayments of principal on loans under this article
16 remaining in the workforce housing infrastructure program
17 account at the end of a biennium shall not lapse and shall
18 not revert as provided in W.S. 9-4-207 but shall remain in
19 the account to implement the purposes of this section.

20
21 (b) Interest and repayments of principal on loans
22 under this article shall be redeposited into the workforce
23 housing infrastructure program account. From the repaid

1 interest, up to one percent (1%) of the outstanding
 2 principal loan balances under this article is continuously
 3 appropriated each fiscal year to the council for
 4 administrative costs associated with servicing loans made
 5 under this article.

***** STAFF COMMENTS *****

The WBC loan personnel is reviewing this language to ensure it accomplishes the intent of the WBC.

***** WBC COMMENTS *****

This is something we are experiencing with BRC. Interest may not be available to pay contractors to service loans. We would like to use a portion of the interest payments for each individual loan to pay for the servicing of each loan by a contractor. Currently, WBC has a loan servicing contract with Markee Escrow Services, Inc. That contract states: "For the performance of the Loan Servicing Duties...Contractor shall charge the council monthly one-half of a percent (0.5%) per annum on the outstanding principal balances of loans being serviced. There are also hourly fees, set up fees, record keeping fees which could add up to 1%. With BRC, we estimate that a \$1.5M loan will cost us \$50,000 over a 10 year term.

Section 2.

25 (a) There is appropriated forty million dollars
 26 (\$40,000,000.00) from the budget reserve account to the
 27 Wyoming workforce housing infrastructure program account
 28 created by W.S. 9-12-905.

30 (b) There is appropriated fifty thousand dollars
 31 (\$50,000,.00) from the budget reserve account to the

1 Wyoming business council for personnel and program
2 administration to develop, operate and oversee the
3 workforce housing infrastructure program, for the fiscal
4 biennium ending June 30, 2010.

5

6

***** WBC COMMENTS *****

7

At this time, it is not clear what the administrative cost for the program would be.

8

Follow up and compliance would be significant.

9

The CFP program has an annual administrative budget of \$114,000 which is paid

10

for by the WBC "out of hide".

11

It is not known if WCDA would want to play a role in administering this program.

12

13 (c) The appropriations under this section shall be
14 one time appropriations and shall not be included in the
15 Wyoming business council's 2011-2012 standard biennial
16 budget request.

17

18 (d) Notwithstanding any other provision of law, the
19 appropriations under this section shall not be transferred
20 or expended for any other purpose.

21

22 (e) The Wyoming business council shall submit a
23 report to the joint minerals, business and economic
24 development interim committee and the joint appropriations
25 interim committee, on or before December 1, 2009,
26 containing a statement of all rules adopted to further the
27 purposes of this act, details of applications submitted

1 under the program and all applicable deed restrictions and
2 regulations adopted to ensure repayment of the loans issued
3 under the program.

4

5 **Section 3.** This act is effective immediately upon
6 completion of all acts necessary for a bill to become law
7 as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

9

10

(END)