



State of Wisconsin
2013 - 2014 LEGISLATURE

October 2013 Special Session



LRB-3423/1
JK:eev&wlj:jm

ASSEMBLY BILL 4

October 15, 2013 – Introduced by JOINT COMMITTEE ON FINANCE, by request of Governor Scott Walker. Referred to Joint Committee on Finance.

1 **AN ACT** *to repeal* 71.07 (9m) (a) 1. and 2., 71.28 (6) (a) 1. and 2. and 71.47 (6) (a)
2 1. and 2.; *to renumber* 71.10 (4) (dm); *to renumber and amend* 71.07 (9m)
3 (a) (intro.), 71.07 (9m) (c), 71.28 (6) (a) (intro.), 71.28 (6) (c), 71.47 (6) (a) (intro.)
4 and 71.47 (6) (c); *to amend* 71.07 (9m) (g) 2., 71.08 (1) (intro.), 71.28 (6) (g) 2.
5 and 71.47 (6) (g) 2.; and *to create* 71.07 (9m) (a) 2m., 71.07 (9m) (a) 3., 71.07
6 (9m) (c) 2., 71.07 (9m) (h), 71.28 (6) (a) 2m., 71.28 (6) (a) 3., 71.28 (6) (c) 2., 71.28
7 (6) (h), 71.47 (6) (a) 2m., 71.47 (6) (a) 3., 71.47 (6) (c) 2. and 71.47 (6) (h) of the
8 statutes; **relating to:** increasing the amount of the supplement to the federal
9 historic rehabilitation tax credit.

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an income and franchise tax credit for 10 percent of the qualified rehabilitation expenditures, as defined under the federal Internal Revenue Code, for certified historic structures on property located in this state, if construction begins after December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989. The credit is a supplement to the federal tax credit for 20 percent of the qualified rehabilitation expenditures for certified historic structures. The federal credit, and the supplemental state credit, apply to nonresidential real property and residential rental property.

Under this bill, a person may claim an income and franchise tax credit for 20 percent of the qualified rehabilitation expenses, as defined under the federal Internal Revenue Code, for certified historic structures on property located in this state, if the cost of the person's qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated property is placed in service after December 31, 2012.

The bill also allows a person to claim a credit equal to 20 percent of the qualified rehabilitation expenses for qualified rehabilitated buildings, as defined under the federal Internal Revenue Code, located in this state. The credit is similar to the federal credit for rehabilitating a building that was first placed in service before 1936, except that the federal credit is 10 percent of the qualified rehabilitation expenses.

Under the bill, the Department of Revenue, in conjunction with the State Historical Society, must submit a report to the Joint Committee on Finance (JCF), no later than June 30, 2016, describing the economic impact of the tax credits and making a recommendation as to whether the tax credits should continue. The recommendation, however, may be implemented only upon approval of JCF.

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.** 71.07 (9m) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
2 Act 20, is renumbered 71.07 (9m) (a) 1m. and amended to read:

3 71.07 **(9m)** (a) 1m. ~~Any~~ For taxable years beginning before January 1, 2013,
4 any person may credit against taxes otherwise due under this chapter, up to the
5 amount of those taxes, an amount equal to ~~one of the following percentages~~ 5 percent
6 of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2)
7 of the Internal Revenue Code, for certified historic structures on property located in
8 this state if the physical work of construction or destruction in preparation for
9 construction begins after December 31, 1988, and the rehabilitated property is
10 placed in service after June 30, 1989~~;~~, and before January 1, 2013.

11 **SECTION 2.** 71.07 (9m) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
12 Act 20, are repealed.

1 **SECTION 3.** 71.07 (9m) (a) 2m. of the statutes is created to read:

2 71.07 **(9m)** (a) 2m. For taxable years beginning after December 31, 2012, any
3 person may claim as a credit against taxes otherwise due under s. 71.02 or 71.08, up
4 to the amount of those taxes, an amount equal to 20 percent of the costs of qualified
5 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
6 Code, for certified historic structures on property located in this state, if the cost of
7 the person's qualified rehabilitation expenditures is at least \$50,000 and the
8 rehabilitated property is placed in service after December 31, 2012.

9 **SECTION 4.** 71.07 (9m) (a) 3. of the statutes is created to read:

10 71.07 **(9m)** (a) 3. For taxable years beginning after December 31, 2012, any
11 person may claim as a credit against taxes otherwise due under s. 71.02 or 71.08, up
12 to the amount of those taxes, an amount equal to 20 percent of the costs of qualified
13 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
14 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
15 Internal Revenue Code, on property located in this state, if the cost of the person's
16 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
17 property is placed in service after December 31, 2012, and regardless of whether the
18 rehabilitated property is used for multiple or revenue-producing purposes. No
19 credit may be claimed under this subdivision for property listed as a contributing
20 building in the state register of historic places or in the national register of historic
21 places and no credit may be claimed under this subdivision for nonhistoric,
22 nonresidential property converted into housing if the property has been previously
23 used for housing.

24 **SECTION 5.** 71.07 (9m) (c) of the statutes is renumbered 71.07 (9m) (c) (intro.)
25 and amended to read:

1 71.07 **(9m)** (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
2 (a) 2m. unless the claimant includes with the claimant's return evidence each of the
3 following:

4 1. Evidence that the rehabilitation was recommended by the state historic
5 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
6 before the physical work of construction, or destruction in preparation for
7 construction, began and that the rehabilitation was approved by the secretary of the
8 interior under 36 CFR 67.6 state historic preservation officer.

9 **SECTION 6.** 71.07 (9m) (c) 2. of the statutes is created to read:

10 71.07 **(9m)** (c) 2. Evidence that the taxpayer obtained written certification from
11 the state historic preservation officer that:

12 a. The property is listed on the national register of historic places in Wisconsin
13 or the state register of historic places, or is determined by the state historical society
14 to be eligible for listing on the national register of historic places in Wisconsin or the
15 state register of historic places, or is located in a historic district that is listed in the
16 national register of historic places in Wisconsin or the state register of historic places
17 and is certified by the state historic preservation officer as being of historic
18 significance to the district, or is an outbuilding of an otherwise eligible property
19 certified by the state historic preservation officer as contributing to the historic
20 significance of the property.

21 b. The proposed preservation or rehabilitation plan complies with standards
22 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
23 substantially complies with the proposed plan.

24 c. The costs are not incurred to acquire any building or interest in a building
25 or to enlarge an existing building.

1 d. The costs were not incurred before the state historical society approved the
2 proposed preservation or rehabilitation plan.

3 **SECTION 7.** 71.07 (9m) (g) 2. of the statutes is amended to read:

4 71.07 **(9m)** (g) 2. Notwithstanding s. 71.77, the department may adjust or
5 disallow the credit claimed under this subsection within 4 years after the date that
6 the state historical society notifies the department that the expenditures for which
7 the credit was claimed do not comply with the standards for certification
8 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
9 in part, a credit transferred under par. (h), only the person who originally transferred
10 the credit to another person is liable to repay the adjusted or disallowed amount.

11 **SECTION 8.** 71.07 (9m) (h) of the statutes is created to read:

12 71.07 **(9m)** (h) Any person, including a nonprofit entity described in section 501
13 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
14 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
15 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
16 of the transfer, and submits with the notification a copy of the transfer documents,
17 and the department certifies ownership of the credit with each transfer.

18 **SECTION 9.** 71.08 (1) (intro.) of the statutes is amended to read:

19 71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married
20 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
21 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
22 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r),
23 and (9e), and (9m) 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3),
24 (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3),
25 (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other

1 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
2 that natural person, married couple filing jointly, trust or estate, instead of the tax
3 under s. 71.02, an alternative minimum tax computed as follows:

4 **SECTION 10.** 71.10 (4) (dm) of the statutes is renumbered 71.10 (4) (fm).

5 **SECTION 11.** 71.28 (6) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
6 Act 20, is renumbered 71.28 (6) (a) 1m. and amended to read:

7 71.28 (6) (a) 1m. ~~Any~~ For taxable years beginning before January 1, 2013, any
8 person may credit against taxes otherwise due under this chapter, up to the amount
9 of those taxes, an amount equal to ~~one of the following percentages~~ 5 percent of the
10 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
11 Internal Revenue Code, for certified historic structures on property located in this
12 state if the physical work of construction or destruction in preparation for
13 construction begins after December 31, 1988, and the rehabilitated property is
14 placed in service after June 30, 1989~~;~~, and before January 1, 2013.

15 **SECTION 12.** 71.28 (6) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
16 Act 20, are repealed.

17 **SECTION 13.** 71.28 (6) (a) 2m. of the statutes is created to read:

18 71.28 (6) (a) 2m. For taxable years beginning after December 31, 2012, any
19 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
20 amount of those taxes, an amount equal to 20 percent of the costs of qualified
21 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
22 Code, for certified historic structures on property located in this state, if the cost of
23 the person's qualified rehabilitation expenditures is at least \$50,000 and the
24 rehabilitated property is placed in service after December 31, 2012.

25 **SECTION 14.** 71.28 (6) (a) 3. of the statutes is created to read:

1 71.28 (6) (a) 3. For taxable years beginning after December 31, 2012, any
2 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
3 amount of those taxes, an amount equal to 20 percent of the costs of qualified
4 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
5 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
6 Internal Revenue Code, on property located in this state, if the cost of the person's
7 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
8 property is placed in service after December 31, 2012, and regardless of whether the
9 rehabilitated property is used for multiple or revenue-producing purposes. No
10 credit may be claimed under this subdivision for property listed as a contributing
11 building in the state register of historic places or in the national register of historic
12 places and no credit may be claimed under this subdivision for nonhistoric,
13 nonresidential property converted into housing if the property has been previously
14 used for housing.

15 **SECTION 15.** 71.28 (6) (c) of the statutes is renumbered 71.28 (6) (c) (intro.) and
16 amended to read:

17 71.28 (6) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
18 (a) 2m. unless the claimant includes with the claimant's return evidence each of the
19 following:

20 1. Evidence that the rehabilitation was recommended by the state historic
21 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
22 before the physical work of construction, or destruction in preparation for
23 construction, began and that the rehabilitation was approved by the secretary of the
24 interior under 36 CFR 67.6 state historic preservation officer.

25 **SECTION 16.** 71.28 (6) (c) 2. of the statutes is created to read:

1 71.28 (6) (c) 2. Evidence that the taxpayer obtained written certification from
2 the state historic preservation officer that:

3 a. The property is listed on the national register of historic places in Wisconsin
4 or the state register of historic places, or is determined by the state historical society
5 to be eligible for listing on the national register of historic places in Wisconsin or the
6 state register of historic places, or is located in a historic district that is listed in the
7 national register of historic places in Wisconsin or the state register of historic places
8 and is certified by the state historic preservation officer as being of historic
9 significance to the district, or is an outbuilding of an otherwise eligible property
10 certified by the state historic preservation officer as contributing to the historic
11 significance of the property.

12 b. The proposed preservation or rehabilitation plan complies with standards
13 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
14 substantially complies with the proposed plan.

15 c. The costs are not incurred to acquire any building or interest in a building
16 or to enlarge an existing building.

17 d. The costs were not incurred before the state historical society approved the
18 proposed preservation or rehabilitation plan.

19 **SECTION 17.** 71.28 (6) (g) 2. of the statutes is amended to read:

20 71.28 (6) (g) 2. Notwithstanding s. 71.77, the department may adjust or
21 disallow the credit claimed under this subsection within 4 years after the date that
22 the state historical society notifies the department that the expenditures for which
23 the credit was claimed do not comply with the standards for certification
24 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or

1 in part, a credit transferred under par. (h), only the person who originally transferred
2 the credit to another person is liable to repay the adjusted or disallowed amount.

3 **SECTION 18.** 71.28 (6) (h) of the statutes is created to read:

4 71.28 (6) (h) Any person, including a nonprofit entity described in section 501
5 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
6 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
7 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
8 of the transfer, and submits with the notification a copy of the transfer documents,
9 and the department certifies ownership of the credit with each transfer.

10 **SECTION 19.** 71.47 (6) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
11 Act 20, is renumbered 71.47 (6) (a) 1m. and amended to read:

12 71.47 (6) (a) 1m. Any For taxable years beginning before January 1, 2013, any
13 person may credit against taxes otherwise due under this chapter, up to the amount
14 of those taxes, an amount equal to one of the following percentages 5 percent of the
15 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
16 Internal Revenue Code, for certified historic structures on property located in this
17 state if the physical work of construction or destruction in preparation for
18 construction begins after December 31, 1988, and the rehabilitated property is
19 placed in service after June 30, 1989; and before January 1, 2013.

20 **SECTION 20.** 71.47 (6) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
21 Act 20, are repealed.

22 **SECTION 21.** 71.47 (6) (a) 2m. of the statutes is created to read:

23 71.47 (6) (a) 2m. For taxable years beginning after December 31, 2012, any
24 person may claim as a credit against taxes otherwise due under s. 71.43, up to the
25 amount of those taxes, an amount equal to 20 percent of the costs of qualified

1 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
2 Code, for certified historic structures on property located in this state, if the cost of
3 the person's qualified rehabilitation expenditures is at least \$50,000 and the
4 rehabilitated property is placed in service after December 31, 2012.

5 **SECTION 22.** 71.47 (6) (a) 3. of the statutes is created to read:

6 71.47 (6) (a) 3. For taxable years beginning after December 31, 2012, any
7 person may claim as a credit against taxes otherwise due under s. 71.43, up to the
8 amount of those taxes, an amount equal to 20 percent of the costs of qualified
9 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
10 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
11 Internal Revenue Code, on property located in this state, if the cost of the person's
12 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
13 property is placed in service after December 31, 2012, and regardless of whether the
14 rehabilitated property is used for multiple or revenue-providing purposes. No credit
15 may be claimed under this subdivision for property listed as a contributing building
16 in the state register of historic places or in the national register of historic places and
17 no credit may be claimed under this subdivision for nonhistoric, nonresidential
18 property converted into housing if the property has been previously used for housing.

19 **SECTION 23.** 71.47 (6) (c) of the statutes is renumbered 71.47 (6) (c) (intro.) and
20 amended to read:

21 71.47 (6) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
22 (a) 2m. unless the claimant includes with the claimant's return evidence each of the
23 following:

24 1. Evidence that the rehabilitation was recommended by the state historic
25 preservation officer for approval by the secretary of the interior under 36 CFR 67.6

1 before the physical work of construction, or destruction in preparation for
2 construction, began and that the rehabilitation was approved by the secretary of the
3 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

4 **SECTION 24.** 71.47 (6) (c) 2. of the statutes is created to read:

5 71.47 (6) (c) 2. Evidence that the taxpayer obtained written certification from
6 the state historic preservation officer that:

7 a. The property is listed on the national register of historic places in Wisconsin
8 or the state register of historic places, or is determined by the state historical society
9 to be eligible for listing on the national register of historic places in Wisconsin or the
10 state register of historic places, or is located in a historic district that is listed in the
11 national register of historic places in Wisconsin or the state register of historic places
12 and is certified by the state historic preservation officer as being of historic
13 significance to the district, or is an outbuilding of an otherwise eligible property
14 certified by the state historic preservation officer as contributing to the historic
15 significance of the property.

16 b. The proposed preservation or rehabilitation plan complies with standards
17 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
18 substantially complies with the proposed plan.

19 c. The costs are not incurred to acquire any building or interest in a building
20 or to enlarge an existing building.

21 d. The costs were not incurred before the state historical society approved the
22 proposed preservation or rehabilitation plan.

23 **SECTION 25.** 71.47 (6) (g) 2. of the statutes is amended to read:

24 71.47 (6) (g) 2. Notwithstanding s. 71.77, the department may adjust or
25 disallow the credit claimed under this subsection within 4 years after the date that

1 the state historical society notifies the department that the expenditures for which
2 the credit was claimed do not comply with the standards for certification
3 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
4 in part, a credit transferred under par. (h), only the person who originally transferred
5 the credit to another person is liable to repay the adjusted or disallowed amount.

6 **SECTION 26.** 71.47 (6) (h) of the statutes is created to read:

7 71.47 (6) (h) Any person, including a nonprofit entity described in section 501
8 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
9 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
10 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
11 of the transfer, and submits with the notification a copy of the transfer documents,
12 and the department certifies ownership of the credit with each transfer.

13 **SECTION 27. Nonstatutory provisions.**

14 (1) JOINT FINANCE REVIEW. No later than June 30, 2016, the department of
15 revenue, in conjunction with the state historical society, shall submit to the joint
16 committee on finance a report describing the economic impact of the tax credits
17 under sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a)
18 2m. and 3. of the statutes, as affected by this act, and shall make a recommendation
19 to the committee as to whether the tax credits should continue. If the department
20 of revenue, in conjunction with the state historical society, determines that the cost
21 of the tax credits to the state is greater than the investments made in order to claim
22 the credits, the department shall recommend in the report that the credits be
23 discontinued for taxable years beginning after December 31, 2016. The report shall
24 also specify the number and type of claimants who have claimed the credits under
25 sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and

