



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1274/1
JK:eev:jf

2013 ASSEMBLY BILL 147

April 15, 2013 - Introduced by Representatives WEININGER, JACQUE, SCHRAA, BERCEAU, JORGENSEN, T. LARSON, MASON, OHNSTAD, SPIROS, ENDSLEY, WRIGHT and GENRICH, cosponsored by Senators GUDEx, L. TAYLOR, LASSA, LEHMAN, HARRIS and SCHULTZ. Referred to Committee on Tourism.

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

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an income and franchise tax credit for 5 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, and before January 1, 2023.

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The bill also allows a person to claim a credit equal to 5 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, 2018, 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) of the statutes is renumbered 71.07 (9m) (a) 1. and
2 amended to read:

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

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

12 71.07 **(9m)** (a) 2. For taxable years beginning after December 31, 2012, and
13 before January 1, 2023 any person may claim as a credit against taxes otherwise due
14 under s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the
15 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the

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1 Internal Revenue Code, for certified historic structures on property located in this
2 state, if the cost of the person's qualified rehabilitation expenditures is at least
3 \$50,000 and the rehabilitated property is placed in service after December 31, 2012,
4 and before January 1, 2023.

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

6 71.07 **(9m)** (a) 3. For taxable years beginning after December 31, 2012, and
7 before January 1, 2023, any person may claim as a credit against taxes otherwise due
8 under s. 71.02, up to the amount of those taxes, an amount equal to 5 percent of the
9 costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the
10 Internal Revenue Code, for qualified rehabilitated buildings, as defined in section 47
11 (c) (1) of the Internal Revenue Code, on property located in this state, if the cost of
12 the person's qualified rehabilitation expenditures is at least \$50,000 and the
13 rehabilitated property is placed in service after December 31, 2012, and before
14 January 1, 2023.

15 **SECTION 4.** 71.07 (9m) (c) of the statutes is renumbered 71.07 (9m) (c) (intro.)

16 and amended to read:

17 71.07 **(9m)** (c) (intro.) No person may claim the credit under this subsection
18 unless the claimant includes with the claimant's return evidence any 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.

25 **SECTION 5.** 71.07 (9m) (c) 2. of the statutes is created to read:

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1 71.07 (9m) (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 6.** 71.07 (9m) (h) of the statutes is created to read:

20 71.07 (9m) (h) A person who is eligible to claim the credit under par. (a) 2. or
21 3. may sell or otherwise transfer the credit to another person who is subject to the
22 taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department
23 of the transfer and submits with the notification a copy of the transfer documents.

24 **SECTION 7.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
25 amended to read:

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1 71.28 (6) (a) 1. Any For taxable years beginning before January 1, 2013, any
2 person may credit against taxes otherwise due under this chapter, up to the amount
3 of those taxes, an amount equal to 5% of the costs of qualified rehabilitation
4 expenditures, as defined in section 47 (c) (2) of the internal revenue code, for certified
5 historic structures on property located in this state if the physical work of
6 construction or destruction in preparation for construction begins after December
7 31, 1988, and the rehabilitated property is placed in service after June 30, 1989, and
8 before January 1, 2013.

9 **SECTION 8.** 71.28 (6) (a) 2. of the statutes is created to read:

10 71.28 (6) (a) 2. For taxable years beginning after December 31, 2012, and before
11 January 1, 2023, any person may claim as a credit against taxes otherwise due under
12 s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs
13 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
14 Revenue Code, for certified historic structures on property located in this state, if the
15 cost of the person's qualified rehabilitation expenditures is at least \$50,000 and the
16 rehabilitated property is placed in service after December 31, 2012, and before
17 January 1, 2023.

18 **SECTION 9.** 71.28 (6) (a) 3. of the statutes is created to read:

19 71.28 (6) (a) 3. For taxable years beginning after December 31, 2012, and before
20 January 1, 2023, any person may claim as a credit against taxes otherwise due under
21 s. 71.23, up to the amount of those taxes, an amount equal to 5 percent of the costs
22 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
23 Revenue Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1)
24 of the Internal Revenue Code, on property located in this state, if the cost of the
25 person's qualified rehabilitation expenditures is at least \$50,000 and the

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1 rehabilitated property is placed in service after December 31, 2012, and before
2 January 1, 2023.

3 **SECTION 10.** 71.28 (6) (c) of the statutes is renumbered 71.28 (6) (c) (intro.) and
4 amended to read:

5 71.28 **(6)** (c) (intro.) No person may claim the credit under this subsection
6 unless the claimant includes with the claimant's return evidence any of the
7 following:

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

13 **SECTION 11.** 71.28 (6) (c) 2. of the statutes is created to read:

14 71.28 **(6)** (c) 2. Evidence that the taxpayer obtained written certification from
15 the state historic preservation officer that:

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

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1 b. The proposed preservation or rehabilitation plan complies with standards
2 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
3 substantially complies with the proposed plan.

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

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

8 **SECTION 12.** 71.28 (6) (h) of the statutes is created to read:

9 71.28 (6) (h) A person who is eligible to claim the credit under par. (a) 2. or 3.
10 may sell or otherwise transfer the credit to another person who is subject to the taxes
11 imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the
12 transfer and submits with the notification a copy of the transfer documents.

13 **SECTION 13.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
14 amended to read:

15 71.47 (6) (a) 1. Any For taxable years beginning before January 1, 2013, any
16 person may credit against taxes otherwise due under this chapter, up to the amount
17 of those taxes, an amount equal to 5% of the costs of qualified rehabilitation
18 expenditures, as defined in section 47 (c) (2) of the internal revenue code, for certified
19 historic structures on property located in this state if the physical work of
20 construction or destruction in preparation for construction begins after December
21 31, 1988, and the rehabilitated property is placed in service after June 30, 1989, and
22 before January 1, 2013.

23 **SECTION 14.** 71.47 (6) (a) 2. of the statutes is created to read:

24 71.47 (6) (a) 2. For taxable years beginning after December 31, 2012, and before
25 January 1, 2023, any person may claim as a credit against taxes otherwise due under

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s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the 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, and before January 1, 2023.

SECTION 15. 71.47 (6) (a) 3. of the statutes is created to read:

71.47 **(6)** (a) 3. For taxable years beginning after December 31, 2012, and before January 1, 2023, any person may claim as a credit against taxes otherwise due under s. 71.43, up to the amount of those taxes, an amount equal to 5 percent of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the Internal Revenue Code, 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, and before January 1, 2023.

SECTION 16. 71.47 (6) (c) of the statutes is renumbered 71.47 (6) (c) (intro.) and amended to read:

71.47 **(6)** (c) (intro.) No person may claim the credit under this subsection unless the claimant includes with the claimant's return evidence any of the following:

1. Evidence that the rehabilitation was recommended by the state historic preservation officer for approval by the secretary of the interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for

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1 construction, began and that the rehabilitation was approved by the secretary of the
2 interior under 36 CFR 67.6.

3 **SECTION 17.** 71.47 (6) (c) 2. of the statutes is created to read:

4 71.47 **(6)** (c) 2. Evidence that the taxpayer obtained written certification from
5 the state historic preservation officer that:

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

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

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

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

22 **SECTION 18.** 71.47 (6) (h) of the statutes is created to read:

23 71.47 **(6)** (h) A person who is eligible to claim the credit under par. (a) 2. or 3.
24 may sell or otherwise transfer the credit to another person who is subject to the taxes

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1 imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the
2 transfer and submits with the notification a copy of the transfer documents.

3 **SECTION 19. Nonstatutory provisions.**

4 (1) JOINT FINANCE REVIEW. No later than June 30, 2018, the department of
5 revenue, in conjunction with the state historical society, shall submit to the joint
6 committee on finance a report describing the economic impact of the tax credits
7 under sections 71.07 (9m) (a) 2. and 3., 71.28 (6) (a) 2. and 3., and 71.47 (6) (a) 2. and
8 3. of the statutes, as affected by this act, and shall make a recommendation to the
9 committee as to whether the tax credits should continue. The report shall also
10 specify the number and type of claimants who have claimed the credits under
11 sections 71.07 (9m) (a) 2. and 3., 71.28 (6) (a) 2. and 3., and 71.47 (6) (a) 2. and 3. of
12 the statutes, as affected by this act, and the commercial purposes for which the
13 rehabilitated properties are used. Within 14 working days after the submittal date
14 of the report, the cochairpersons of the committee shall notify the department of
15 revenue and the state historical society that the committee has scheduled a meeting
16 for the purpose of reviewing the recommendation. The recommendation may be
17 implemented only upon approval of the committee.

18 (END)