



2005 ASSEMBLY BILL 1046

February 20, 2006 – Introduced by Representatives FREESE, RICHARDS, VOS, HAHN, MURSAU, BERCEAU, OTT, ALBERS and HINES, cosponsored by Senator RISSER. Referred to Committee on Tourism.

1 **AN ACT** *to amend* 44.02 (24) and 71.74 (8) (d); and *to create* 71.05 (6) (a) 21.,
2 71.07 (9s) and 71.10 (4) (cf) of the statutes; **relating to:** creating a
3 nonrefundable individual income tax credit for historic barns.

Analysis by the Legislative Reference Bureau

Under current law, an individual who owns a historic building in this state that is used as an owner-occupied personal residence, and is not used for business purposes, may claim an income tax credit for the costs incurred by that person to rehabilitate the historic building. The amount of the tax credit is equal to 25 percent of the costs incurred to rehabilitate the historic building. To qualify for the tax credit, the State Historical Society must certify, to the Department of Revenue (DOR), that the historic building is listed on the national or state register of historic places, or is eligible for listing on the national or state register of historic places. The maximum credit amount that may be claimed for preserving or rehabilitating the building may not exceed \$10,000 for each project.

This bill creates a similar credit for the preservation and rehabilitation of historic barns, or historic buildings that contribute to the significance of a complex that contains a historic barn. Under the bill, the credit may be claimed by an individual for 25 percent of the costs incurred by the claimant to preserve or rehabilitate an eligible historic barn or building. The costs for which the credit may be claimed are limited to the exterior, the structural elements, or the electrical, plumbing, heating, and ventilation systems of an eligible barn or building. The bill does not contain a maximum credit amount that may be claimed.

ASSEMBLY BILL 1046

The bill requires the State Historical Society to promulgate rules and standards to govern the certification of barns as historic barns, to certify to DOR that the proposed preservation or rehabilitation plan meets such standards, and to certify to DOR that the completed work substantially complies with the proposed plan.

For a claimant to be eligible to claim the credit, the expenditures for the preservation or rehabilitation work must exceed \$10,000, and such work must be completed within five years after the date on which the physical work of construction or destruction in preparation for construction begins.

For further information see the *state and local* 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.** 44.02 (24) of the statutes is amended to read:

2 44.02 **(24)** Promulgate by rule procedures, standards and forms necessary to
3 certify, and shall certify, expenditures for preservation or rehabilitation of historic
4 property for the purposes of s. 71.07 (9r) and (9s). These standards shall be
5 substantially similar to the standards used by the secretary of the interior to certify
6 rehabilitations under 26 USC 47 (c) (2).

7 **SECTION 2.** 71.05 (6) (a) 21. of the statutes is created to read:

8 71.05 **(6)** (a) 21. For a claimant who claims and receives the credit under s.
9 71.07 (9s), one of the following percentages of the amount of the credit received if the
10 claimant, within 5 years after the date on which the preservation or rehabilitation
11 work that was the basis of the credit is completed, either sells or conveys the property
12 by deed or land contract or if, with regard to the property, within 5 years after the
13 date on which the preservation or rehabilitation work that was the basis of the credit
14 is completed the state historical society certifies to the department of revenue that
15 the historic property has been altered to the extent that it does not comply with the
16 standards promulgated under s. 44.02 (24):

ASSEMBLY BILL 1046

1 a. If the sale, conveyance, or noncompliance occurs during the first year after
2 the date on which the preservation or rehabilitation is completed, 100 percent.

3 b. If the sale, conveyance, or noncompliance occurs during the 2nd year after
4 the date on which the preservation or rehabilitation is completed, 80 percent.

5 c. If the sale, conveyance, or noncompliance occurs during the 3rd year after
6 the date on which the preservation or rehabilitation is completed, 60 percent.

7 d. If the sale, conveyance, or noncompliance occurs during the 4th year after
8 the date on which the preservation or rehabilitation is completed, 40 percent.

9 e. If the sale, conveyance, or noncompliance occurs during the 5th year after
10 the date on which the preservation or rehabilitation is completed, 20 percent.

11 **SECTION 3.** 71.07 (9s) of the statutes is created to read:

12 71.07 (9s) HISTORIC BARN PRESERVATION AND REHABILITATION CREDIT. (a)

13 *Definitions.* In this subsection:

14 1. "Claimant" means an individual who owns a historic barn or historic building
15 and claims the credit under this subsection.

16 2. "Department" means the department of revenue.

17 3. "Historic barn" means a barn, or building, about which the state historical
18 society certifies to the department at least one of the following:

19 a. The barn is a contributing element within a property that has been listed in
20 the national register of historic places in Wisconsin or the state register of historic
21 places, or has been determined by the state historical society to be eligible for listing
22 on the state register of historic places.

23 b. The barn contributes to the significance of a district that is listed on the
24 national register of historic places in Wisconsin or the state register of historic places.

ASSEMBLY BILL 1046**SECTION 3**

1 c. The building was constructed as a barn for agricultural purposes before 1960
2 as determined by the state historical society, was originally clad with wood or
3 constructed of masonry, and retains physical characteristics dating to its
4 agricultural use.

5 4. “Historic building” means a nonresidential building or structure that the
6 state historical society certifies to the department was constructed before 1960 and
7 contributes to the significance of a complex containing a historic barn.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
9 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
10 amount of those taxes, an amount equal to 25 percent of the costs incurred by the
11 claimant in the preservation or rehabilitation of a historic barn or historic building
12 located in this state, including architectural fees, if the physical work of construction
13 or destruction in preparation for construction begins after January 1, 2006.

14 (c) *Limitations.* 1. No credit may be allowed under this subsection unless all
15 of the following apply:

16 a. The credit is claimed within the time period under s. 71.75 (2).

17 b. The state historical society certifies to the department that the proposed
18 preservation or rehabilitation plan complies with the standards promulgated under
19 s. 44.02 (24).

20 c. The preservation or rehabilitation work is completed within 5 years after the
21 date that the physical work of construction or destruction in preparation for
22 construction begins.

23 d. The expenditures for preservation or rehabilitation of the historic barn or
24 historic building exceed \$10,000.

ASSEMBLY BILL 1046

1 e. The state historical society certifies to the department that the completed
2 preservation or rehabilitation substantially complies with the proposed plan.

3 f. The costs are not incurred to acquire any building or interest in a building
4 or to enlarge existing building.

5 g. The costs were not incurred before the state historical society certified the
6 proposed preservation or rehabilitation plan under subd. 1. b.

7 2. The costs incurred for the preservation or rehabilitation of a historic barn
8 or historic building , for which a claim may be made under this subsection, are limited
9 to costs to preserve or rehabilitate the following:

10 a. The exterior of such a barn or building.

11 b. Structural repair to such a barn or building.

12 c. Electrical or plumbing systems in such a barn or building.

13 d. Heating or ventilation systems in such a barn or building.

14 3. With regard to certification by the state historical society that is described
15 in par. (a) 3. and 4., the society's certification shall be based on standards
16 promulgated under s. 44.02 (24).

17 4. The Wisconsin adjusted basis of the historic barn or historic building shall
18 be reduced by the amount of any credit awarded under this subsection.

19 5. If a claimant files a claim under this subsection, the claimant may not claim
20 a credit under sub. (9m) or (9r) for the same expenses.

21 6. If an individual files a claim for a rehabilitation credit under section 47 of
22 the Internal Revenue Code for qualified rehabilitation expenditures, as defined in
23 26 USC 47 (c) (2), the individual may not file a claim under this subsection for the
24 same expenses.

ASSEMBLY BILL 1046**SECTION 3**

1 7. If the historic barn or historic building is owned by 2 or more individuals that
2 hold legal title or equitable title as a land contract vendee and are not joint tenants,
3 tenants in common, or spouses owning marital property, the credit under this
4 subsection may be claimed as follows:

5 a. For projects benefiting one owner, the individual may claim the credit based
6 on eligible costs incurred individually.

7 b. For projects benefiting 2 or more owners, an individual may claim the credit
8 based on eligible costs incurred by benefiting owners in proportion to the individual's
9 ownership interest.

10 8. No individual may claim the credit under this subsection for the
11 rehabilitation of a historic barn or historic building if the barn or building was
12 acquired by the individual under an agreement requiring the individual to sell or
13 otherwise dispose of the historic barn or historic building back to the previous owner
14 within 5 years after the date that the barn or building was acquired.

15 (d) *Administration.* Section 71.28 (4) (f) and (g), to the extent that it applies
16 to the credit under that subsection, applies to the credit under this subsection.

17 **SECTION 4.** 71.10 (4) (cf) of the statutes is created to read:

18 71.10 (4) (cf) The historic barns preservation and rehabilitation credit under
19 s. 71.07 (9s).

20 **SECTION 5.** 71.74 (8) (d) of the statutes is amended to read:

21 71.74 (8) (d) If a claim for a state historic rehabilitation credit under s. 71.07
22 (9r) or a claim for a historic barns preservation and rehabilitation credit under s.
23 71.07 (9s) is false or excessive, the department shall disallow the claim in full. If a
24 credit has been allowed against income taxes otherwise payable, the credit shall be
25 canceled and the amount may be recovered by assessment as income taxes are

ASSEMBLY BILL 1046

1 assessed. Notwithstanding par. (a) and s. 71.77, the department shall notify the
2 claimant of the determination and shall give reasons for the disallowance under sub.
3 (11) within 4 years after the date that the state historical society notifies the
4 department that the preservation or rehabilitation is not in compliance with s. 71.07
5 (9r) (b) 3. b. or 4., or not in compliance with s. 71.07 (9s) (c) 1. b., c., and e., but that
6 notification must be made within 6 years after the date that the physical work of
7 construction, or destruction in preparation for construction, begins.

8 **SECTION 6. Initial applicability.**

9 (1) This act first applies to taxable years beginning on January 1 of the year
10 in which this subsection takes effect, except that if this subsection takes effect after
11 July 31 this act first applies to taxable years beginning on January 1 of the year
12 following the year in which this subsection takes effect.

13

(END)