



## 2007 ASSEMBLY BILL 957

March 11, 2008 - Introduced by Representatives SHILLING and HUEBSCH,  
cosponsored by Senator KAPANKE. Referred to Committee on Ways and Means.

1     **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)  
2           (a) 10. and 77.92 (4); and *to create* 71.07 (5r), 71.10 (4) (cr), 71.28 (5r), 71.30  
3           (3) (cr), 71.47 (5r) and 71.49 (1) (cr) of the statutes; **relating to:** an income and  
4           franchise tax credit for certain nonprofit community theaters.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit for the property taxes paid on property owned by a nonprofit entity and operated as a community theater, if the property satisfies all of the following conditions:

1. It is used for the purposes for which the nonprofit entity is granted a federal income tax exemption.
2. It is located on land donated by a local business owner.
3. It is located on land that is within 20 miles of the Mississippi River.
4. It is located on a parcel of land that is at least one-fourth of an acre, but no larger than two acres.
5. It includes one or more theaters for the performing arts and the seating capacity of the theater or theaters is not less than 450 persons.
6. It includes facilities that are used for arts education.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2007 Wisconsin Act  
2           20, is amended to read:

3           71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
4           (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e),  
5           (5f), (5h), (5i), (5j), ~~and (5k),~~ and (5r) and not passed through by a partnership, limited  
6           liability company, or tax-option corporation that has added that amount to the  
7           partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or  
8           71.34 (1) (g).

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

10           71.07 **(5r)** NONPROFIT COMMUNITY THEATER CREDIT. (a) *Definition.* In this  
11           subsection, "claimant" means a person who files a claim under this subsection.

12           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
13           claimant may claim as a credit against the tax imposed under s. 71.02 up to the  
14           amount of the tax, the amount of property taxes imposed under ch. 70 that the  
15           claimant paid in the taxable year on all property owned or leased by a corporation,  
16           organization, or association that is exempt from taxation under section 501 (c) (3) of  
17           the Internal Revenue Code, if the property satisfies the following conditions:

18           1. It is used for the purposes for which the exemption under section 501 (c) (3)  
19           of the Internal Revenue Code is granted to the corporation, organization, or  
20           association that owns or leases the property.

21           2. It is located on land donated by a local business owner.

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1           3. It is located on land that is within 20 miles of the Mississippi River.

2           4. It is located on a parcel of land that is at least one-fourth of an acre, but no  
3 larger than 2 acres.

4           5. It includes one or more theaters for the performing arts that are operated by  
5 the corporation, organization, or association and the seating capacity of the theater  
6 or theaters is not less than 450 persons.

7           6. It includes facilities that are used for arts education.

8           (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
9 corporations may not claim the credit under this subsection, but the eligibility for,  
10 and the amount of, the credit are based on their payment of amounts under par. (b).  
11 A partnership, limited liability company, or tax-option corporation shall compute  
12 the amount of credit that each of its partners, members, or shareholders may claim  
13 and shall provide that information to each of them. Partners, members of limited  
14 liability companies, and shareholders of tax-option corporations may claim the  
15 credit in proportion to their ownership interests.

16           (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
17 s. 71.28 (4), applies to the credit under this subsection.

18           **SECTION 3.** 71.10 (4) (cr) of the statutes is created to read:

19           71.10 (4) (cr) Nonprofit community theater credit under s. 71.07 (5r).

20           **SECTION 4.** 71.21 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is  
21 amended to read:

22           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
23 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),  
24 (5h), (5i), (5j), and (5k), and (5r) and passed through to partners shall be added to the  
25 partnership's income.

**ASSEMBLY BILL 957****SECTION 5**

1           **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
2 is amended to read:

3           71.26 **(2)** (a) *Corporations in general.* The “net income” of a corporation means  
4 the gross income as computed under the Internal Revenue Code as modified under  
5 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
6 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
7 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
8 under this paragraph at the time that the taxpayer first claimed the credit plus the  
9 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
10 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k), and  
11 (5r) and not passed through by a partnership, limited liability company, or  
12 tax-option corporation that has added that amount to the partnership’s, limited  
13 liability company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1)  
14 (g) plus the amount of losses from the sale or other disposition of assets the gain from  
15 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were  
16 sold or otherwise disposed of at a gain and minus deductions, as computed under the  
17 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
18 amount equal to the difference between the federal basis and Wisconsin basis of any  
19 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
20 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

21           **SECTION 6.** 71.28 (5r) of the statutes is created to read:

22           71.28 **(5r)** NONPROFIT COMMUNITY THEATER CREDIT. (a) *Definition.* In this  
23 subsection, “claimant” means a person who files a claim under this subsection.

24           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
25 claimant may claim as a credit against the tax imposed under s. 71.23 up to the

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1 amount of the tax, the amount of property taxes imposed under ch. 70 that the  
2 claimant paid in the taxable year on all property owned or leased by a corporation,  
3 organization, or association that is exempt from taxation under section 501 (c) (3) of  
4 the Internal Revenue Code, if the property satisfies the following conditions:

5 1. It is used for the purposes for which the exemption under section 501 (c) (3)  
6 of the Internal Revenue Code is granted to the corporation, organization, or  
7 association that owns or leases the property.

8 2. It is located on land donated by a local business owner.

9 3. It is located on land that is within 20 miles of the Mississippi River.

10 4. It is located on a parcel of land that is at least one-fourth of an acre, but no  
11 larger than 2 acres.

12 5. It includes one or more theaters for the performing arts that are operated by  
13 the corporation, organization, or association and the seating capacity of the theater  
14 or theaters is not less than 450 persons.

15 6. It includes facilities that are used for arts education.

16 (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
17 corporations may not claim the credit under this subsection, but the eligibility for,  
18 and the amount of, the credit are based on their payment of amounts under par. (b).  
19 A partnership, limited liability company, or tax-option corporation shall compute  
20 the amount of credit that each of its partners, members, or shareholders may claim  
21 and shall provide that information to each of them. Partners, members of limited  
22 liability companies, and shareholders of tax-option corporations may claim the  
23 credit in proportion to their ownership interests.

24 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under  
25 sub. (4), applies to the credit under this subsection.

**ASSEMBLY BILL 957****SECTION 7**

1           **SECTION 7.** 71.30 (3) (cr) of the statutes is created to read:

2           71.30 **(3)** (cr) Nonprofit community theater credit under s. 71.28 (5r).

3           **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,  
4 is amended to read:

5           71.34 **(1)** (g) An addition shall be made for credits computed by a tax-option  
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
7 (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5r) and passed  
8 through to shareholders.

9           **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
10 20, is amended to read:

11           71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit  
12 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
13 (5j), ~~and (5k)~~, and (5r) and not passed through by a partnership, limited liability  
14 company, or tax-option corporation that has added that amount to the partnership's,  
15 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or  
16 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and  
17 (5).

18           **SECTION 10.** 71.47 (5r) of the statutes is created to read:

19           71.47 **(5r)** NONPROFIT COMMUNITY THEATER CREDIT. (a) *Definition.* In this  
20 subsection, "claimant" means a person who files a claim under this subsection.

21           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
22 claimant may claim as a credit against the tax imposed under s. 71.43 up to the  
23 amount of the tax, the amount of property taxes imposed under ch. 70 that the  
24 claimant paid in the taxable year on all property owned or leased by a corporation,

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1 organization, or association that is exempt from taxation under section 501 (c) (3) of  
2 the Internal Revenue Code, if the property satisfies the following conditions:

3 1. It is used for the purposes for which the exemption under section 501 (c) (3)  
4 of the Internal Revenue Code is granted to the corporation, organization, or  
5 association that owns or leases the property.

6 2. It is located on land donated by a local business owner.

7 3. It is located on land that is within 20 miles of the Mississippi River.

8 4. It is located on a parcel of land that is at least one-fourth of an acre, but no  
9 larger than 2 acres.

10 5. It includes one or more theaters for the performing arts that are operated by  
11 the corporation, organization, or association and the seating capacity of the theater  
12 or theaters is not less than 450 persons.

13 6. It includes facilities that are used for arts education.

14 (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
15 corporations may not claim the credit under this subsection, but the eligibility for,  
16 and the amount of, the credit are based on their payment of amounts under par. (b).  
17 A partnership, limited liability company, or tax-option corporation shall compute  
18 the amount of credit that each of its partners, members, or shareholders may claim  
19 and shall provide that information to each of them. Partners, members of limited  
20 liability companies, and shareholders of tax-option corporations may claim the  
21 credit in proportion to their ownership interests.

22 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
23 s. 71.28 (4), applies to the credit under this subsection.

24 **SECTION 11.** 71.49 (1) (cr) of the statutes is created to read:

25 71.49 (1) (cr) Nonprofit community theater credit under s. 71.47 (5r).

