



2003 ASSEMBLY BILL 309

May 1, 2003 - Introduced by Representatives SCHOOFF, TURNER, RICHARDS, SHILLING, POCAN, FREESE, BERCEAU, PLOUFF, HINES, ALBERS, BALOW, ZEPNICK, GIELOW and HUBER, cosponsored by Senator BRESKE. Referred to Committee on Housing.

1 **AN ACT** *to renumber* 44.02 (24) and 71.10 (4) (dr); *to renumber and amend*
2 71.07 (9m) (a), 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to amend* 71.07 (5m)
3 (a) 4., 71.07 (9m) (c), 71.08 (1) (intro.), 71.28 (6) (c) and 71.47 (6) (c); and *to*
4 **create** 44.02 (24) (b), 44.02 (24d), 71.07 (9m) (a) 2., 71.07 (9m) (cm), 71.07 (9m)
5 (g), 71.07 (9m) (h), 71.07 (9r) (a) 2., 71.28 (6) (a) 2., 71.28 (6) (cm), 71.28 (6) (g),
6 71.28 (6) (h), 71.47 (6) (a) 2., 71.47 (6) (cm), 71.47 (6) (g) and 71.47 (6) (h) of the
7 statutes; **relating to:** the supplement to the federal historic rehabilitation tax
8 credit and the state historic rehabilitation tax credit.

Analysis by the Legislative Reference Bureau

Under current law, a person who is eligible to claim a federal income tax credit equal to either 10% of qualified expenses related to rehabilitating a qualified building in this state or 20% of qualified expenses related to rehabilitating historic property in this state may also claim a supplemental state income or franchise tax credit that is equal to 5% of such qualified expenses.

Under the bill, for taxable years beginning in 2004, a person who is eligible to claim the federal income tax credit for rehabilitating qualified buildings or historic property in this state may claim a supplemental state income tax or franchise tax credit that is equal to 20% of the qualified expenses related to rehabilitating a

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qualified building or historic property. In addition, a person who is not eligible to claim the federal rehabilitation tax credit because the person's qualified expenses do not satisfy the adjusted-basis requirement under federal law may claim the state rehabilitation credit, if the person's qualified expenses are at least \$10,000 and the rehabilitation is approved, and the expenses are certified, by the state Historical Society. The state Historical Society may charge and collect a fee for such certification in an amount equal to 1% of the qualified expenses, but not less than \$150 nor more than \$10,000.

Under current law, a person may claim an income tax credit equal to 25% of the qualified expenses to preserve or rehabilitate historic property that is used as an owner-occupied personal residence. The state Historical Society certifies such expenses.

Under this bill, for taxable years beginning in 2004, a person may claim an income tax credit equal to 30% of the qualified expenses to preserve or rehabilitate historic property that is used as an owner-occupied personal residence. The state Historical Society may charge and collect a fee for certifying such expenses. The amount of the fee is \$150.

Under current law, if a person who claims the income tax credit for qualified expenses to preserve or rehabilitate an owner-occupied personal residence sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or on the date on which the preservation or rehabilitation does not comply with state Historical Society standards.

Under this bill, if a person who claims the supplemental state income or franchise tax credit for qualified expenses related to preserving or rehabilitating historic property in this state sells the property within five years from the date on which the preservation or rehabilitation is completed, or if the state Historical Society determines that the preservation or rehabilitation does not comply with the standards established by the society, the person who claimed the tax credit must pay to the state all, or a portion, of the amount of the credit that the person received, depending on the date on which the person sold the property or the date on which the preservation or rehabilitation does not comply with state Historical Society standards.

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.** 44.02 (24) of the statutes is renumbered 44.02 (24) (a).

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1 **SECTION 2.** 44.02 (24) (b) of the statutes is created to read:

2 44.02 **(24)** (b) Charge a fee of \$150 for a certification under par. (a). The
3 historical society shall collect the fee under this paragraph when an applicant
4 applies for certification under par. (a).

5 **SECTION 3.** 44.02 (24d) of the statutes is created to read:

6 44.02 **(24d)** (a) Promulgate by rule procedures, standards, and forms necessary
7 to certify, and shall certify, expenditures for preservation or rehabilitation of historic
8 property for the purposes of ss. 71.07 (9m) (a) and (cm), 71.28 (6) (a) and (cm), and
9 71.47 (6) (a) and (cm). Such standards shall be substantially similar to the standards
10 used by the secretary of the interior to certify rehabilitations under 26 USC 47 (c) (2).

11 (b) Charge a fee for a certification under par. (a) equal to 1% of the qualified
12 rehabilitation expenditures for the historic property that is the subject of the
13 certification, except that no fee under this paragraph may be less than \$150 nor more
14 than \$10,000. The historical society shall collect the fee under this paragraph when
15 an applicant applies for certification under par. (a).

16 **SECTION 4.** 71.07 (5m) (a) 4. of the statutes is amended to read:

17 71.07 **(5m)** (a) 4. "Net tax liability" means a claimant's income tax liability after
18 he or she completes the computations listed in s. 71.10 (4) (a) to ~~(dr)~~ (dm).

19 **SECTION 5.** 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and
20 amended to read:

21 71.07 **(9m)** (a) 1. Any person may credit against taxes otherwise due under this
22 chapter, up to the amount of those taxes, an amount equal to 5% of the costs of
23 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
24 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
25 located in this state, if the physical work of construction or destruction in preparation

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1 for construction begins after December 31, 1988, and before January 1, 2004, and the
2 rehabilitated property is placed in service after June 30, 1989.

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

4 71.07 **(9m)** (a) 2. Any person may credit against taxes otherwise due under this
5 chapter, up to the amount of those taxes, an amount equal to 20% of the costs of
6 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
7 Revenue Code, for certified historic structures on property located in this state, if the
8 physical work of construction or destruction in preparation for construction begins
9 after December 31, 2003.

10 **SECTION 7.** 71.07 (9m) (c) of the statutes is amended to read:

11 71.07 **(9m)** (c) ~~No~~ Except as provided in par. (cm), no person may claim the
12 credit under this subsection unless the claimant includes with the claimant's return
13 evidence that the rehabilitation was approved recommended by the state historic
14 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
15 before the physical work of construction, or destruction in preparation for
16 construction, began; and the claimant claims the credit for the same taxable year in
17 which the claimant would have claimed the credit for federal purposes.

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

19 71.07 **(9m)** (cm) A person whose qualified rehabilitation expenditures do not
20 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
21 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
22 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
23 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
24 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
25 by the state historical society before the physical work of construction, or destruction

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1 in preparation for construction, begins; if the person includes evidence of such
2 approval with the person's return; and if the person claims the credit for the same
3 taxable year in which the person would have claimed the credit for federal purposes.

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

5 71.07 **(9m)** (g) A person who has incurred qualified rehabilitation
6 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for
7 certified historic structures located in this state, as described in par. (a), but who is
8 not a resident of this state and who is not required to file a return under this chapter,
9 may enter into an agreement with another person, with the department's approval
10 and in the manner prescribed by the department, so that the other person may claim
11 the credit under this subsection, if the other person is subject to the taxes imposed
12 under s. 71.02.

13 **SECTION 10.** 71.07 (9m) (h) of the statutes is created to read:

14 71.07 **(9m)** (h) A person who receives a credit under this subsection shall add
15 to the person's liability for taxes imposed under s. 71.02 one of the following
16 percentages of the amount of the credits received under this subsection for
17 rehabilitating or preserving the property if, within 5 years after the date on which
18 the preservation or rehabilitation work that was the basis of the credit is completed,
19 the person either sells or conveys the property by deed or land contract or the state
20 historical society certifies to the department of revenue that the historic property has
21 been altered to the extent that it does not comply with the standards promulgated
22 under s. 44.02 (24d):

23 1. If the sale, conveyance, or noncompliance occurs during the first year after
24 the date on which the preservation or rehabilitation is completed, 100%.

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1 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
2 the date on which the preservation or rehabilitation is completed, 80%.

3 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
4 the date on which the preservation or rehabilitation is completed, 60%.

5 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
6 the date on which the preservation or rehabilitation is completed, 40%.

7 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
8 the date on which the preservation or rehabilitation is completed, 20%.

9 **SECTION 11.** 71.07 (9r) (a) of the statutes is renumbered 71.07 (9r) (a) 1. and
10 amended to read:

11 71.07 **(9r)** (a) 1. For taxable years beginning on or after August 1, 1988, any
12 natural person may credit against taxes otherwise due under s. 71.02 an amount
13 equal to 25% of the costs of preservation or rehabilitation of historic property located
14 in this state, including architectural fees and costs incurred in preparing nomination
15 forms for listing in the national register of historic places in Wisconsin or the state
16 register of historic places, if the nomination is made within 5 years prior to
17 submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the
18 physical work of construction or destruction in preparation for construction begins
19 after December 31, 1988, and before January 1, 2004, except that the credit may not
20 exceed \$10,000, or \$5,000 for married persons filing separately, for any preservation
21 or rehabilitation project.

22 **SECTION 12.** 71.07 (9r) (a) 2. of the statutes is created to read:

23 71.07 **(9r)** (a) 2. For taxable years beginning after December 31, 2003, any
24 natural person may credit against taxes otherwise due under s. 71.02 an amount
25 equal to 30% of the costs of preservation or rehabilitation of historic property located

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1 in this state, including architectural fees and costs incurred in preparing nomination
2 forms for listing in the national register of historic places in Wisconsin or the state
3 register of historic places, if the nomination is made within 5 years prior to
4 submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the
5 physical work of construction or destruction in preparation for construction begins
6 after December 31, 2003, except that the credit may not exceed \$10,000, or \$5,000
7 for married persons filing separately, for any preservation or rehabilitation project.

8 **SECTION 13.** 71.08 (1) (intro.) of the statutes is amended to read:

9 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
10 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (6),
12 (6s), and (9e), and (9r), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m)
13 and (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
14 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
15 tax under this section, there is imposed on that natural person, married couple filing
16 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
17 computed as follows:

18 **SECTION 14.** 71.10 (4) (dr) of the statutes is renumbered 71.10 (4) (fm).

19 **SECTION 15.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
20 amended to read:

21 71.28 (6) (a) 1. Any person may credit against taxes otherwise due under this
22 chapter, up to the amount of those taxes, an amount equal to 5% of the costs of
23 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
24 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
25 located in this state, if the physical work of construction or destruction in preparation

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1 for construction begins after December 31, 1988, and before January 1, 2004, and the
2 rehabilitated property is placed in service after June 30, 1989.

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

4 71.28 (6) (a) 2. Any person may credit against taxes otherwise due under this
5 chapter, up to the amount of those taxes, an amount equal to 20% of the costs of
6 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
7 Revenue Code, for certified historic structures on property located in this state, if the
8 physical work of construction or destruction in preparation for construction begins
9 after December 31, 2003.

10 **SECTION 17.** 71.28 (6) (c) of the statutes is amended to read:

11 71.28 (6) (c) ~~No~~ Except as provided in par. (cm), no person may claim the credit
12 under this subsection unless the claimant includes with the claimant's return
13 evidence that the rehabilitation was approved recommended by the state historic
14 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
15 before the physical work of construction, or destruction in preparation for
16 construction, began; and the claimant claims the credit for the same taxable year in
17 which the claimant would have claimed the credit for federal purposes.

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

19 71.28 (6) (cm) A person whose qualified rehabilitation expenditures do not
20 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
21 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
22 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
23 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
24 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
25 by the state historical society before the physical work of construction, or destruction

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1 in preparation for construction, begins; if the person includes evidence of such
2 approval with the person's return; and if the person claims the credit for the same
3 taxable year in which the person would have claimed the credit for federal purposes.

4 **SECTION 19.** 71.28 (6) (g) of the statutes is created to read:

5 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,
6 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
7 structures located in this state, as described in par. (a), but who is not a resident of
8 this state and who is not required to file a return under this chapter, may enter into
9 an agreement with another person, with the department's approval and in the
10 manner prescribed by the department, so that the other person may claim the credit
11 under this subsection, if the other person is subject to the taxes imposed under s.
12 71.23.

13 **SECTION 20.** 71.28 (6) (h) of the statutes is created to read:

14 71.28 (6) (h) A person who receives a credit under this subsection shall add to
15 the person's liability for taxes imposed under s. 71.23 one of the following
16 percentages of the amount of the credits received under this subsection for
17 rehabilitating or preserving the property if, within 5 years after the date on which
18 the preservation or rehabilitation work that was the basis of the credit is completed,
19 the person either sells or conveys the property by deed or land contract or the state
20 historical society certifies to the department of revenue that the historic property has
21 been altered to the extent that it does not comply with the standards promulgated
22 under s. 44.02 (24d):

23 1. If the sale, conveyance, or noncompliance occurs during the first year after
24 the date on which the preservation or rehabilitation is completed, 100%.

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1 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
2 the date on which the preservation or rehabilitation is completed, 80%.

3 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
4 the date on which the preservation or rehabilitation is completed, 60%.

5 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
6 the date on which the preservation or rehabilitation is completed, 40%.

7 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
8 the date on which the preservation or rehabilitation is completed, 20%.

9 **SECTION 21.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
10 amended to read:

11 71.47 (6) (a) 1. Any person may credit against taxes otherwise due under this
12 chapter, up to the amount of those taxes, an amount equal to 5% of the costs of
13 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
14 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
15 located in this state, if the physical work of construction or destruction in preparation
16 for construction begins after December 31, 1988, and before January 1, 2004, and the
17 rehabilitated property is placed in service after June 30, 1989.

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

19 71.47 (6) (a) 2. Any person may credit against taxes otherwise due under this
20 chapter, up to the amount of those taxes, an amount equal to 20% of the costs of
21 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
22 Revenue Code, for certified historic structures on property located in this state, if the
23 physical work of construction or destruction in preparation for construction begins
24 after December 31, 2003.

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

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1 71.47 (6) (c) ~~No~~ Except as provided in par. (cm), no person may claim the credit
2 under this subsection unless the claimant includes with the claimant's return
3 evidence that the rehabilitation was ~~approved~~ recommended by the state historic
4 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
5 before the physical work of construction, or destruction in preparation for
6 construction, began; and the claimant claims the credit for the same taxable year in
7 which the claimant would have claimed the credit for federal purposes.

8 **SECTION 24.** 71.47 (6) (cm) of the statutes is created to read:

9 71.47 (6) (cm) A person whose qualified rehabilitation expenditures do not
10 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
11 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
12 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
13 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
14 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
15 by the state historical society before the physical work of construction, or destruction
16 in preparation for construction, begins; if the person includes evidence of such
17 approval with the person's return; and if the person claims the credit for the same
18 taxable year in which the person would have claimed the credit for federal purposes.

19 **SECTION 25.** 71.47 (6) (g) of the statutes is created to read:

20 71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures,
21 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
22 structures located in this state, as described in par. (a), but who is not a resident of
23 this state and who is not required to file a return under this chapter, may enter into
24 an agreement with another person, with the department's approval and in the
25 manner prescribed by the department, so that the other person may claim the credit

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1 under this subsection, if the other person is subject to the taxes imposed under s.
2 71.43.

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

4 71.47 (6) (h) A person who receives a credit under this subsection shall add to
5 the person's liability for taxes imposed under s. 71.43 one of the following
6 percentages of the amount of the credits received under this subsection for
7 rehabilitating or preserving the property if, within 5 years after the date on which
8 the preservation or rehabilitation work that was the basis of the credit is completed,
9 the person either sells or conveys the property by deed or land contract or the state
10 historical society certifies to the department of revenue that the historic property has
11 been altered to the extent that it does not comply with the standards promulgated
12 under s. 44.02 (24d):

13 1. If the sale, conveyance, or noncompliance occurs during the first year after
14 the date on which the preservation or rehabilitation is completed, 100%.

15 2. If the sale, conveyance, or noncompliance occurs during the 2nd year after
16 the date on which the preservation or rehabilitation is completed, 80%.

17 3. If the sale, conveyance, or noncompliance occurs during the 3rd year after
18 the date on which the preservation or rehabilitation is completed, 60%.

19 4. If the sale, conveyance, or noncompliance occurs during the 4th year after
20 the date on which the preservation or rehabilitation is completed, 40%.

21 5. If the sale, conveyance, or noncompliance occurs during the 5th year after
22 the date on which the preservation or rehabilitation is completed, 20%.

23 **SECTION 27. Initial applicability.**

24 (1) This act first applies to taxable years beginning on January 1, 2004.

25

(END)