



2009 ASSEMBLY BILL 754

February 16, 2010 - Introduced by Representatives FRISKE, CLARK, MEYER, MURSAU, M. WILLIAMS, MOLEPSKE JR., BERCEAU, BIES, BROOKS, NERISON, A. OTT, SUDER, TAUCHEN, TOWNSEND and VOS, cosponsored by Senator HOLPERIN. Referred to Committee on Forestry.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26
2 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4);
3 and **to create** 20.835 (2) (ba), 71.07 (3rm), 71.28 (3rm), 71.47 (3rm) and 560.209
4 of the statutes; **relating to:** an income and franchise tax credit for lumber
5 manufacturing facility investments and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit in an amount equal to 10 percent of the amount that a taxpayer pays in a taxable year for lumber manufacturing modernization and expansion. If the credit amount exceeds the amount of the taxpayer's tax liability, the taxpayer will receive a refund.

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:

6 **SECTION 1.** 20.835 (2) (ba) of the statutes is created to read:
7 20.835 (2) (ba) *Lumber manufacturing facility investment credit.* A sum
8 sufficient to make the payments under ss. 71.07 (3rm), 71.28 (3rm), and 71. 47 (3rm).

ASSEMBLY BILL 754**SECTION 2**

1 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
2 2, 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), (2dy), (3g), (3h), (3n), (3p), (3r), (3rm),
5 (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), and (5k) and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that
7 amount to the partnership's, company's, or tax-option corporation's income under s.
8 71.21 (4) or 71.34 (1k) (g).

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

10 71.07 **(3rm)** LUMBER MANUFACTURING FACILITY INVESTMENT CREDIT. (a)
11 *Definitions.* In this subsection:

- 12 1. "Claimant" means a person who files a claim under this subsection.
- 13 2. "Lumber manufacturing modernization or expansion" means constructing,
14 improving, or acquiring buildings or facilities, or acquiring equipment for lumber
15 manufacturing, if used exclusively for lumber manufacturing and if acquired and
16 placed in service in this state during taxable years that begin after December 31,
17 2008, and before January 1, 2015.
- 18 3. "Used exclusively" means used to the exclusion of all other uses except for
19 use not exceeding 5 percent of total use.

20 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
21 560.209, for taxable years beginning after December 31, 2008, and before January
22 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.02
23 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount
24 the claimant paid in the taxable year for lumber manufacturing modernization or
25 expansion.

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1 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
2 amount that the claimant paid for expenses described under par. (b) that the
3 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

4 2. The aggregate amount of credits that a claimant may claim under this
5 subsection is \$200,000.

6 3. a. The maximum amount of the credits that may be claimed under this
7 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2009-10 is \$700,000,
8 as allocated under s. 560.209.

9 b. The maximum amount of the credits that may be claimed under this
10 subsection and ss. 71.28 (3rm) and 71.47 (3rm) in fiscal year 2010-11, and in each
11 fiscal year thereafter, is \$800,000, as allocated under s. 560.209.

12 4. Partnerships, limited liability companies, and tax-option corporations may
13 not claim the credit under this subsection, but the eligibility for, and the amount of,
14 the credit are based on their payment of expenses under par. (b), except that the
15 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
16 A partnership, limited liability company, or tax-option corporation shall compute
17 the amount of credit that each of its partners, members, or shareholders may claim
18 and shall provide that information to each of them. Partners, members of limited
19 liability companies, and shareholders of tax-option corporations may claim the
20 credit in proportion to their ownership interest.

21 5. If 2 or more persons own and operate the lumber manufacturing operation,
22 each person may claim a credit under par. (b) in proportion to his or her ownership
23 interest, except that the aggregate amount of the credits claimed by all persons who
24 own and operate the operation shall not exceed \$200,000.

ASSEMBLY BILL 754**SECTION 3**

1 (d) *Administration*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
2 credit under s. 71.28 (4), applies to the credit under this subsection.

3 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
4 due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due
5 shall be certified by the department of revenue to the department of administration
6 for payment by check, share draft, or other draft drawn from the appropriation
7 account under s. 20.835 (2) (ba).

8 **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
9 2, is amended to read:

10 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
11 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
12 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (2fd), (3m), (3n),
13 (3p), (3r), (3rm), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), and (9e), 71.28 (1dd),
14 (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (1fd), (2m), (3), (3n), (3t), and (3w), and
15 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (1fd), (2m), (3), (3n), (3t), and
16 (3w), and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less
17 than the tax under this section, there is imposed on that natural person, married
18 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
19 minimum tax computed as follows:

20 **SECTION 5.** 71.10 (4) (i) of the statutes, as affected by 2009 Wisconsin Act 2, is
21 amended to read:

22 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
23 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
24 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
25 71.07 (2fd), dairy manufacturing facility investment credit under s. 71.07 (3p), meat

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1 processing facility investment credit under s. 71.07 (3r), lumber manufacturing
2 facility investment credit under s. 71.07 (3rm), film production services credit under
3 s. 71.07 (5f) (b) 2., veterans and surviving spouses property tax credit under s. 71.07
4 (6e), enterprise zone jobs credit under s. 71.07 (3w), earned income tax credit under
5 s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
6 subch. X.

7 **SECTION 6.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is
8 amended to read:

9 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
10 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3rm), (3s), (3t), (3w),
11 (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and passed through to partners shall be added
12 to the partnership's income.

13 **SECTION 7.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 2,
14 is amended to read:

15 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
16 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3r), (3rm),
17 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and not passed through by a
18 partnership, limited liability company, or tax-option corporation that has added that
19 amount to the partnership's, limited liability company's, or tax-option corporation's
20 income under s. 71.21 (4) or 71.34 (1k) (g).

21 **SECTION 8.** 71.28 (3rm) of the statutes is created to read:

22 71.28 (3rm) LUMBER MANUFACTURING FACILITY INVESTMENT CREDIT. (a)

23 *Definitions.* In this subsection:

24 1. "Claimant" means a person who files a claim under this subsection.

ASSEMBLY BILL 754**SECTION 8**

1 2. “Lumber manufacturing modernization or expansion” means constructing,
2 improving, or acquiring buildings or facilities, or acquiring equipment for lumber
3 manufacturing, if used exclusively for lumber manufacturing and if acquired and
4 placed in service in this state during taxable years that begin after December 31,
5 2008, and before January 1, 2015.

6 3. “Used exclusively” means used to the exclusion of all other uses except for
7 use not exceeding 5 percent of total use.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
9 560.209, for taxable years beginning after December 31, 2008, and before January
10 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.23,
11 up to the amount of the tax, an amount equal to 10 percent of the amount the
12 claimant paid in the taxable year for lumber manufacturing modernization or
13 expansion.

14 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
15 amount that the claimant paid for expenses described under par. (b) that the
16 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

17 2. The aggregate amount of credits that a claimant may claim under this
18 subsection is \$200,000.

19 3. a. The maximum amount of the credits that may be claimed under this
20 subsection and ss. 71.07 (3rm) and 71.47 (3rm) in fiscal year 2009–10 is \$700,000,
21 as allocated under s. 560.209.

22 b. The maximum amount of the credits that may be claimed under this
23 subsection and ss. 71.07 (3rm) and 71.47 (3rm) in fiscal year 2010–11, and in each
24 fiscal year thereafter, is \$800,000, as allocated under s. 560.209.

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1 4. Partnerships, limited liability companies, and tax-option corporations may
2 not claim the credit under this subsection, but the eligibility for, and the amount of,
3 the credit are based on their payment of expenses under par. (b), except that the
4 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
5 A partnership, limited liability company, or tax-option corporation shall compute
6 the amount of credit that each of its partners, members, or shareholders may claim
7 and shall provide that information to each of them. Partners, members of limited
8 liability companies, and shareholders of tax-option corporations may claim the
9 credit in proportion to their ownership interest.

10 5. If 2 or more persons own and operate the lumber manufacturing operation,
11 each person may claim a credit under par. (b) in proportion to his or her ownership
12 interest, except that the aggregate amount of the credits claimed by all persons who
13 own and operate the operation shall not exceed \$200,000.

14 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
15 under sub. (4), applies to the credit under this subsection.

16 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
17 due under s. 71.23, the amount of the claim not used to offset the tax due shall be
18 certified by the department of revenue to the department of administration for
19 payment by check, share draft, or other draft drawn from the appropriation account
20 under s. 20.835 (2) (ba).

21 **SECTION 9.** 71.30 (3) (f) of the statutes, as affected by 2009 Wisconsin Act 2, is
22 amended to read:

23 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
24 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
25 s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p),

ASSEMBLY BILL 754**SECTION 9**

1 meat processing facility investment credit under s. 71.28 (3r), lumber manufacturing
2 facility investment credit under s. 71.28 (3rm), enterprise zone jobs credit under s.
3 71.28 (3w), film production services credit under s. 71.28 (5f) (b) 2., and estimated
4 tax payments under s. 71.29.

5 **SECTION 10.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 2,
6 is amended to read:

7 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
8 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
9 (3), (3g), (3h), (3n), (3p), (3r), (3rm), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k)
10 and passed through to shareholders.

11 **SECTION 11.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
12 2, is amended to read:

13 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
14 computed under s. 71.47 (1dd) to (1dy), (3h), (3n), (3p), (3r), (3rm), (3w), (5e), (5f), (5g),
15 (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited liability
16 company, or tax-option corporation that has added that amount to the partnership's,
17 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
18 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
19 (5).

20 **SECTION 12.** 71.47 (3rm) of the statutes is created to read:

21 71.47 **(3rm)** LUMBER MANUFACTURING FACILITY INVESTMENT CREDIT. (a)

22 *Definitions.* In this subsection:

23 1. "Claimant" means a person who files a claim under this subsection.

24 2. "Lumber manufacturing modernization or expansion" means constructing,
25 improving, or acquiring buildings or facilities, or acquiring equipment for lumber

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1 manufacturing, if used exclusively for lumber manufacturing and if acquired and
2 placed in service in this state during taxable years that begin after December 31,
3 2008, and before January 1, 2015.

4 3. "Used exclusively" means used to the exclusion of all other uses except for
5 use not exceeding 5 percent of total use.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
7 560.209, for taxable years beginning after December 31, 2008, and before January
8 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.43,
9 up to the amount of the tax, an amount equal to 10 percent of the amount the
10 claimant paid in the taxable year for lumber manufacturing modernization or
11 expansion.

12 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
13 amount that the claimant paid for expenses described under par. (b) that the
14 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

15 2. The aggregate amount of credits that a claimant may claim under this
16 subsection is \$200,000.

17 3. a. The maximum amount of the credits that may be claimed under this
18 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in fiscal year 2009-10 is \$700,000,
19 as allocated under s. 560.209.

20 b. The maximum amount of the credits that may be claimed under this
21 subsection and ss. 71.07 (3rm) and 71.28 (3rm) in fiscal year 2010-11, and in each
22 fiscal year thereafter, is \$800,000, as allocated under s. 560.209.

23 4. Partnerships, limited liability companies, and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on their payment of expenses under par. (b), except that the

ASSEMBLY BILL 754**SECTION 12**

1 aggregate amount of credits that the entity may compute shall not exceed \$200,000.
2 A partnership, limited liability company, or tax-option corporation shall compute
3 the amount of credit that each of its partners, members, or shareholders may claim
4 and shall provide that information to each of them. Partners, members of limited
5 liability companies, and shareholders of tax-option corporations may claim the
6 credit in proportion to their ownership interest.

7 5. If 2 or more persons own and operate the lumber manufacturing operation,
8 each person may claim a credit under par. (b) in proportion to his or her ownership
9 interest, except that the aggregate amount of the credits claimed by all persons who
10 own and operate the operation shall not exceed \$200,000.

11 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
12 credit under s. 71.28 (4), applies to the credit under this subsection.

13 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
14 due under s. 71.43, the amount of the claim not used to offset the tax due shall be
15 certified by the department of revenue to the department of administration for
16 payment by check, share draft, or other draft drawn from the appropriation account
17 under s. 20.835 (2) (ba).

18 **SECTION 13.** 71.49 (1) (f) of the statutes, as affected by 2009 Wisconsin Act 2,
19 is amended to read:

20 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
21 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
22 s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p),
23 meat processing facility investment credit under s. 71.47 (3r), lumber manufacturing
24 facility investment credit under s. 71.47 (3rm), enterprise zone jobs credit under s.

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1 71.47 (3w), film production services credit under s. 71.47 (5f) (b) 2., and estimated
2 tax payments under s. 71.48.

3 **SECTION 14.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is
4 amended to read:

5 77.92 (4) "Net business income," with respect to a partnership, means taxable
6 income as calculated under section 703 of the Internal Revenue Code; plus the items
7 of income and gain under section 702 of the Internal Revenue Code, including taxable
8 state and municipal bond interest and excluding nontaxable interest income or
9 dividend income from federal government obligations; minus the items of loss and
10 deduction under section 702 of the Internal Revenue Code, except items that are not
11 deductible under s. 71.21; plus guaranteed payments to partners under section 707
12 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
13 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3rm),
14 (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k); and plus or minus, as
15 appropriate, transitional adjustments, depreciation differences, and basis
16 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
17 loss, and deductions from farming. "Net business income," with respect to a natural
18 person, estate, or trust, means profit from a trade or business for federal income tax
19 purposes and includes net income derived as an employee as defined in section 3121
20 (d) (3) of the Internal Revenue Code.

21 **SECTION 15.** 560.209 of the statutes is created to read:

22 **560.209 Lumber manufacturing facility investment credit.** (1) The
23 department of commerce shall implement a program to certify taxpayers as eligible
24 for the lumber manufacturing facility investment credit under ss. 71.07 (3rm), 71.28
25 (3rm), and 71.47 (3rm).

