



2005 ASSEMBLY BILL 1047

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

1 **AN ACT** *to renumber* 71.10 (4) (dr); *to renumber and amend* 71.07 (9m) (a),
2 71.07 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to amend* 44.02 (24), 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** 71.07 (9m) (a) 2., 71.07 (9m) (cm), 71.07 (9m) (g), 71.07 (9m) (h), 71.07
5 (9r) (a) 2., 71.21 (6), 71.28 (6) (a) 2., 71.28 (6) (cm), 71.28 (6) (g), 71.28 (6) (h),
6 71.47 (6) (a) 2., 71.47 (6) (cm), 71.47 (6) (g) and 71.47 (6) (h) of the statutes;
7 **relating to:** the supplement to the federal historic rehabilitation tax credit and
8 the state historic rehabilitation tax credit and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a person who is eligible to claim a federal income tax credit equal to 20 percent 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 percent of such qualified expenses.

Under the bill, for taxable years beginning in 2005, a person who is eligible to claim the federal income tax credit for rehabilitating historic property in this state may claim a supplemental state income tax or franchise tax credit that is equal to 20 percent of the qualified expenses related to rehabilitating historic property. In addition, a person who is not eligible to claim the federal rehabilitation tax credit

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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.

Under current law, a person may claim an income tax credit equal to 25 percent 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 2005, a person may claim an income tax credit equal to 30 percent of the qualified expenses to preserve or rehabilitate historic property that is used as an owner-occupied personal residence.

Under this bill, the State Historical Society must establish any procedures, standards, and forms that are necessary to certify expenditures for preserving or rehabilitating historic property, consistent with the tax credits created in this bill.

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 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. ss.~~ ss. 71.07 (9m) (a) and (cm) and (9r), 71.28 (6) (a) and

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1 (cm), and 71.47 (6) (a) and (cm). These standards shall be substantially similar to
2 the standards used by the secretary of the interior to certify rehabilitations under
3 26 USC 47 (c) (2).

4 **SECTION 2.** 71.07 (5m) (a) 4. of the statutes is amended to read:

5 71.07 **(5m)** (a) 4. “Net tax liability” means a claimant’s income tax liability after
6 he or she completes the computations listed in s. 71.10 (4) (a) to ~~(dr)~~ (dm).

7 **SECTION 3.** 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and
8 amended to read:

9 71.07 **(9m)** (a) 1. Any person may credit against taxes otherwise due under this
10 chapter, up to the amount of those taxes, an amount equal to ~~5%~~ 5 percent of the costs
11 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
12 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
13 located in this state, if the physical work of construction or destruction in preparation
14 for construction begins after December 31, 1988, and before January 1, 2005, and the
15 rehabilitated property is placed in service after June 30, 1989.

16 **SECTION 4.** 71.07 (9m) (a) 2. of the statutes is created to read:

17 71.07 **(9m)** (a) 2. Any person may credit against taxes otherwise due under this
18 chapter, up to the amount of those taxes, an amount equal to 20 percent of the costs
19 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
20 Revenue Code, for certified historic structures on property located in this state, if the
21 physical work of construction or destruction in preparation for construction begins
22 after December 31, 2004.

23 **SECTION 5.** 71.07 (9m) (c) of the statutes is amended to read:

24 71.07 **(9m)** (c) ~~No~~ Except as provided in par. (cm), no person may claim the
25 credit under this subsection unless the claimant includes with the claimant’s return

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1 evidence that the rehabilitation was approved recommended by the state historic
2 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
3 before the physical work of construction, or destruction in preparation for
4 construction, began; and the claimant claims the credit for the same taxable year in
5 which the claimant would have claimed the credit for federal purposes.

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

7 71.07 **(9m)** (cm) A person whose qualified rehabilitation expenditures do not
8 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
9 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
10 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
11 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
12 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
13 by the state historical society before the physical work of construction, or destruction
14 in preparation for construction, begins; if the person includes evidence of such
15 approval with the person's return; and if the person claims the credit for the same
16 taxable year in which the person would have claimed the credit for federal purposes.

17 **SECTION 7.** 71.07 (9m) (g) of the statutes is created to read:

18 71.07 **(9m)** (g) A person who has incurred qualified rehabilitation
19 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for
20 certified historic structures located in this state, as described in par. (a), but who is
21 not a resident of this state and who is not required to file a return under this chapter,
22 may enter into an agreement with another person, with the department's approval
23 and in the manner prescribed by the department, so that the other person may claim
24 the credit under this subsection, if the other person is subject to the taxes imposed
25 under s. 71.02.

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

2 71.07 **(9m)** (h) A person who receives a credit under this subsection shall add
3 to the person's liability for taxes imposed under s. 71.02 one of the following
4 percentages of the amount of the credits received under this subsection for
5 rehabilitating or preserving the property if, within 5 years after the date on which
6 the preservation or rehabilitation work that was the basis of the credit is completed,
7 the person either sells or conveys the property by deed or land contract or the state
8 historical society certifies to the department of revenue that the historic property has
9 been altered to the extent that it does not comply with the standards promulgated
10 under s. 44.02 (24):

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

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

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

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

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

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

23 71.07 **(9r)** (a) 1. For taxable years beginning on or after August 1, 1988, any
24 natural person may credit against taxes otherwise due under s. 71.02 an amount
25 equal to ~~25%~~ 25 percent of the costs of preservation or rehabilitation of historic

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1 property located in this state, including architectural fees and costs incurred in
2 preparing nomination forms for listing in the national register of historic places in
3 Wisconsin or the state register of historic places, if the nomination is made within
4 5 years prior to submission of a preservation or rehabilitation plan under par. (b) 3.
5 b., and if the physical work of construction or destruction in preparation for
6 construction begins after December 31, 1988, and before January 1, 2005, except that
7 the credit may not exceed \$10,000, or \$5,000 for married persons filing separately,
8 for any preservation or rehabilitation project.

9 **SECTION 10.** 71.07 (9r) (a) 2. of the statutes is created to read:

10 71.07 **(9r)** (a) 2. For taxable years beginning after December 31, 2004, any
11 natural person may credit against taxes otherwise due under s. 71.02 an amount
12 equal to 30 percent of the costs of preservation or rehabilitation of historic property
13 located in this state, including architectural fees and costs incurred in preparing
14 nomination forms for listing in the national register of historic places in Wisconsin
15 or the state register of historic places, if the nomination is made within 5 years prior
16 to submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the
17 physical work of construction or destruction in preparation for construction begins
18 after December 31, 2004, except that the credit may not exceed \$10,000, or \$5,000
19 for married persons filing separately, for any preservation or rehabilitation project.

20 **SECTION 11.** 71.08 (1) (intro.) of the statutes is amended to read:

21 71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married
22 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
23 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),
24 (3t), (5b), (5d), (6), and (9e), and (9r), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),
25 (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),

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1 (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other states
2 under s. 71.07 (7), is less than the tax under this section, there is imposed on that
3 natural person, married couple filing jointly, trust, or estate, instead of the tax under
4 s. 71.02, an alternative minimum tax computed as follows:

5 **SECTION 12.** 71.10 (4) (dr) of the statutes is renumbered 71.10 (4) (fm).

6 **SECTION 13.** 71.21 (6) of the statutes is created to read:

7 71.21 (6) Credits computed by a partnership under s. 71.07 (9m), 71.28 (6), or
8 71.47 (6) may be allocated to partners either as provided under this chapter or
9 pursuant to an agreement among the partners establishing an alternate allocation
10 method. The partners shall notify the department of an agreement within 30 days
11 after the agreement is executed and shall provide any additional information
12 requested by the department regarding the agreement.

13 **SECTION 14.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
14 amended to read:

15 71.28 (6) (a) 1. Any person may credit against taxes otherwise due under this
16 chapter, up to the amount of those taxes, an amount equal to ~~5%~~ 5 percent of the costs
17 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
18 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
19 located in this state, if the physical work of construction or destruction in preparation
20 for construction begins after December 31, 1988, and before January 1, 2005, and the
21 rehabilitated property is placed in service after June 30, 1989.

22 **SECTION 15.** 71.28 (6) (a) 2. of the statutes is created to read:

23 71.28 (6) (a) 2. Any person may credit against taxes otherwise due under this
24 chapter, up to the amount of those taxes, an amount equal to 20 percent of the costs
25 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal

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1 Revenue Code, for certified historic structures on property located in this state, if the
2 physical work of construction or destruction in preparation for construction begins
3 after December 31, 2004.

4 **SECTION 16.** 71.28 (6) (c) of the statutes is amended to read:

5 71.28 (6) (c) ~~No~~ Except as provided in par. (cm), no person may claim the credit
6 under this subsection unless the claimant includes with the claimant's return
7 evidence that the rehabilitation was approved recommended by the state historic
8 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
9 before the physical work of construction, or destruction in preparation for
10 construction, began; and the claimant claims the credit for the same taxable year in
11 which the claimant would have claimed the credit for federal purposes.

12 **SECTION 17.** 71.28 (6) (cm) of the statutes is created to read:

13 71.28 (6) (cm) A person whose qualified rehabilitation expenditures do not
14 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
15 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
16 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
17 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
18 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
19 by the state historical society before the physical work of construction, or destruction
20 in preparation for construction, begins; if the person includes evidence of such
21 approval with the person's return; and if the person claims the credit for the same
22 taxable year in which the person would have claimed the credit for federal purposes.

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

24 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,
25 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic

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1 structures located in this state, as described in par. (a), but who is not a resident of
2 this state and who is not required to file a return under this chapter, may enter into
3 an agreement with another person, with the department's approval and in the
4 manner prescribed by the department, so that the other person may claim the credit
5 under this subsection, if the other person is subject to the taxes imposed under s.
6 71.23.

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

8 71.28 (6) (h) A person who receives a credit under this subsection shall add to
9 the person's liability for taxes imposed under s. 71.23 one of the following
10 percentages of the amount of the credits received under this subsection for
11 rehabilitating or preserving the property if, within 5 years after the date on which
12 the preservation or rehabilitation work that was the basis of the credit is completed,
13 the person either sells or conveys the property by deed or land contract or the state
14 historical society certifies to the department of revenue that the historic property has
15 been altered to the extent that it does not comply with the standards promulgated
16 under s. 44.02 (24):

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

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

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

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

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

3 **SECTION 20.** 71.47 (6) (a) of the statutes is renumbered 71.47 (6) (a) 1. and
4 amended to read:

5 71.47 (6) (a) 1. Any person may credit against taxes otherwise due under this
6 chapter, up to the amount of those taxes, an amount equal to ~~5%~~ 5 percent of the costs
7 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
8 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
9 located in this state, if the physical work of construction or destruction in preparation
10 for construction begins after December 31, 1988, and before January 1, 2005, and the
11 rehabilitated property is placed in service after June 30, 1989.

12 **SECTION 21.** 71.47 (6) (a) 2. of the statutes is created to read:

13 71.47 (6) (a) 2. Any person may credit against taxes otherwise due under this
14 chapter, up to the amount of those taxes, an amount equal to 20 percent of the costs
15 of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
16 Revenue Code, for certified historic structures on property located in this state, if the
17 physical work of construction or destruction in preparation for construction begins
18 after December 31, 2004.

19 **SECTION 22.** 71.47 (6) (c) of the statutes is amended to read:

20 71.47 (6) (c) ~~No~~ Except as provided in par. (cm), no person may claim the credit
21 under this subsection unless the claimant includes with the claimant's return
22 evidence that the rehabilitation was ~~approved~~ recommended by the state historic
23 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
24 before the physical work of construction, or destruction in preparation for

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1 construction, began; and the claimant claims the credit for the same taxable year in
2 which the claimant would have claimed the credit for federal purposes.

3 **SECTION 23.** 71.47 (6) (cm) of the statutes is created to read:

4 71.47 (6) (cm) A person whose qualified rehabilitation expenditures do not
5 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
6 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
7 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
8 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
9 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
10 by the state historical society before the physical work of construction, or destruction
11 in preparation for construction, begins; if the person includes evidence of such
12 approval with the person's return; and if the person claims the credit for the same
13 taxable year in which the person would have claimed the credit for federal purposes.

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

15 71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures,
16 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
17 structures located in this state, as described in par. (a), but who is not a resident of
18 this state and who is not required to file a return under this chapter, may enter into
19 an agreement with another person, with the department's approval and in the
20 manner prescribed by the department, so that the other person may claim the credit
21 under this subsection, if the other person is subject to the taxes imposed under s.
22 71.43.

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

24 71.47 (6) (h) A person who receives a credit under this subsection shall add to
25 the person's liability for taxes imposed under s. 71.43 one of the following

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1 percentages of the amount of the credits received under this subsection for
2 rehabilitating or preserving the property if, within 5 years after the date on which
3 the preservation or rehabilitation work that was the basis of the credit is completed,
4 the person either sells or conveys the property by deed or land contract or the state
5 historical society certifies to the department of revenue that the historic property has
6 been altered to the extent that it does not comply with the standards promulgated
7 under s. 44.02 (24):

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

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

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

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

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

SECTION 26. Initial applicability.

18 (1) This act first applies to taxable years beginning on January 1, 2005.
19

20 (END)