

2001 ASSEMBLY BILL 840

February 20, 2002 – Introduced by Representatives SCHOOFF, BERCEAU, POCAN and SHILLING, cosponsored by Senators BURKE and SCHULTZ. Referred to Committee on Housing.

1 **AN ACT** *to renumber* 44.02 (24); *to renumber and amend* 71.07 (9m) (a), 71.07
2 (9r) (a), 71.28 (6) (a) and 71.47 (6) (a); *to amend* 71.07 (9m) (c), 71.08 (1) (intro.),
3 71.28 (6) (c) and 71.47 (6) (c); and *to create* 44.02 (24) (b), 44.02 (24d), 71.07
4 (9m) (a) 2., 71.07 (9m) (cm), 71.07 (9m) (g), 71.07 (9r) (a) 2., 71.28 (6) (a) 2., 71.28
5 (6) (cm), 71.28 (6) (g), 71.47 (6) (a) 2., 71.47 (6) (cm) and 71.47 (6) (g) of the
6 statutes; **relating to:** the supplement to the federal historic rehabilitation tax
7 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 2003, 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 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

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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 2003, 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 to be determined by rule by the state historical society.

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).

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

3 44.02 (**24**) (b) Charge a fee for a certification under par. (a) in an amount to be
4 determined by rule by the historical society. The historical society shall collect the
5 fee under this paragraph when an applicant applies for certification under par. (a).

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

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

12 (b) Charge a fee for a certification under par. (a) equal to 1% of the qualified
13 rehabilitation expenditures for the historic property that is the subject of the

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1 certification, except that no fee under this paragraph may be less than \$150 nor more
2 than \$10,000. The historical society shall collect the fee under this paragraph when
3 an applicant applies for certification under par. (a).

4 **SECTION 4.** 71.07 (9m) (a) of the statutes is renumbered 71.07 (9m) (a) 1. and
5 amended to read:

6 71.07 **(9m)** (a) 1. Any person may credit against taxes otherwise due under this
7 chapter, up to the amount of those taxes, an amount equal to 5% of the costs of
8 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
9 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
10 located in this state, if the physical work of construction or destruction in preparation
11 for construction begins after December 31, 1988, and before January 1, 2003, and the
12 rehabilitated property is placed in service after June 30, 1989, and before July 1,
13 2003.

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

15 71.07 **(9m)** (a) 2. Any person may credit against taxes otherwise due under this
16 chapter, up to the amount of those taxes, an amount equal to 20% of the costs of
17 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
18 Revenue Code, for certified historic structures on property located in this state, if the
19 physical work of construction or destruction in preparation for construction begins
20 after December 31, 2002, and the rehabilitated property is placed in service after
21 June 30, 2003.

22 **SECTION 6.** 71.07 (9m) (c) of the statutes is amended to read:

23 71.07 **(9m)** (c) ~~No~~ Except as provided in par. (cm), no person may claim the
24 credit under this subsection unless the claimant includes with the claimant's return
25 evidence that the rehabilitation was ~~approved~~ recommended by the state historic

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1 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
2 before the physical work of construction, or destruction in preparation for
3 construction, began.

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

5 71.07 **(9m)** (cm) A person whose qualified rehabilitation expenditures do not
6 satisfy the adjusted basis requirement under section 47 (c) (1) of the Internal
7 Revenue Code, but who otherwise would be eligible to claim the rehabilitation credit
8 under section 47 of the Internal Revenue Code, may claim the credit under par. (a),
9 if the person's qualified rehabilitation expenditures, as defined in section 47 (c) (2)
10 of the Internal Revenue Code, are at least \$10,000; if the rehabilitation is approved
11 by the state historical society before the physical work of construction, or destruction
12 in preparation for construction, begins; and if the person includes evidence of such
13 approval with the person's return.

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

15 71.07 **(9m)** (g) A person who has incurred qualified rehabilitation
16 expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for
17 certified historic structures located in this state, as described in par. (a), but who is
18 not a resident of this state and who is not required to file a return under this chapter,
19 may enter into an agreement with another person, with the department of revenue's
20 approval and in the manner prescribed by the department, so that the other person
21 may claim the credit under this subsection, if the other person is subject to the taxes
22 imposed under s. 71.02.

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

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1 71.07 (9r) (a) 1. For taxable years beginning on or after August 1, 1988, and
2 before January 1, 2003, any natural person may credit against taxes otherwise due
3 under s. 71.02 an amount equal to 25% of the costs of preservation or rehabilitation
4 of historic property located in this state, including architectural fees and costs
5 incurred in preparing nomination forms for listing in the national register of historic
6 places in Wisconsin or the state register of historic places, if the nomination is made
7 within 5 years prior to submission of a preservation or rehabilitation plan under par.
8 (b) 3. b., and if the physical work of construction or destruction in preparation for
9 construction begins after December 31, 1988, and before January 1, 2003, except that
10 the credit may not exceed \$10,000, or \$5,000 for married persons filing separately,
11 for any preservation or rehabilitation project.

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

13 71.07 (9r) (a) 2. For taxable years beginning after December 31, 2002, any
14 natural person may credit against taxes otherwise due under s. 71.02 an amount
15 equal to 30% of the costs of preservation or rehabilitation of historic property located
16 in this state, including architectural fees and costs incurred in preparing nomination
17 forms for listing in the national register of historic places in Wisconsin or the state
18 register of historic places, if the nomination is made within 5 years prior to
19 submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the
20 physical work of construction or destruction in preparation for construction begins
21 after December 31, 2002, except that the credit may not exceed \$10,000, or \$5,000
22 for married persons filing separately, for any preservation or rehabilitation project.

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

24 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
25 couple filing jointly, trust or estate under s. 71.02, not considering the credits under

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1 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (6) and,
2 (9e), and (9r), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
3 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and subchs. VIII
4 and IX and payments to other states under s. 71.07 (7), is less than the tax under this
5 section, there is imposed on that natural person, married couple filing jointly, trust
6 or estate, instead of the tax under s. 71.02, an alternative minimum tax computed
7 as follows:

8 **SECTION 12.** 71.28 (6) (a) of the statutes is renumbered 71.28 (6) (a) 1. and
9 amended to read:

10 71.28 **(6)** (a) 1. Any person may credit against taxes otherwise due under this
11 chapter, up to the amount of those taxes, an amount equal to 5% of the costs of
12 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the ~~internal~~
13 ~~revenue code~~ Internal Revenue Code, for certified historic structures on property
14 located in this state, if the physical work of construction or destruction in preparation
15 for construction begins after December 31, 1988, and before January 1, 2003, and the
16 rehabilitated property is placed in service after June 30, 1989, and before July 1,
17 2003.

18 **SECTION 13.** 71.28 (6) (a) 2. of the statutes is created to read:

19 71.28 **(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, 2002, and the rehabilitated property is placed in service after
25 June 30, 2003.

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1 **SECTION 14.** 71.28 (6) (c) of the statutes is amended to read:

2 71.28 (6) (c) ~~No~~ Except as provided in par. (cm), no person may claim the credit
3 under this subsection unless the claimant includes with the claimant's return
4 evidence that the rehabilitation was approved recommended by the state historic
5 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
6 before the physical work of construction, or destruction in preparation for
7 construction, began.

8 **SECTION 15.** 71.28 (6) (cm) of the statutes is created to read:

9 71.28 (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; and if the person includes evidence of such
17 approval with the person's return.

18 **SECTION 16.** 71.28 (6) (g) of the statutes is created to read:

19 71.28 (6) (g) A person who has incurred qualified rehabilitation expenditures,
20 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
21 structures located in this state, as described in par. (a), but who is not a resident of
22 this state and who is not required to file a return under this chapter, may enter into
23 an agreement with another person, with the department of revenue's approval and
24 in the manner prescribed by the department, so that the other person may claim the

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1 credit under this subsection, if the other person is subject to the taxes imposed under
2 s. 71.23.

3 **SECTION 17.** 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% of the costs of
7 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, 2003, and the
11 rehabilitated property is placed in service after June 30, 1989, and before July 1
12 2003.

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

14 71.47 **(6)** (a) 2. Any person may credit against taxes otherwise due under this
15 chapter, up to the amount of those taxes, an amount equal to 20% of the costs of
16 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
17 Revenue Code, for certified historic structures on property located in this state, if the
18 physical work of construction or destruction in preparation for construction begins
19 after December 31, 2002, and the rehabilitated property is placed in service after
20 June 30, 2003.

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

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

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1 before the physical work of construction, or destruction in preparation for
2 construction, began.

3 **SECTION 20.** 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; and if the person includes evidence of such
12 approval with the person's return.

13 **SECTION 21.** 71.47 (6) (g) of the statutes is created to read:

14 71.47 (6) (g) A person who has incurred qualified rehabilitation expenditures,
15 as defined in section 47 (c) (2) of the Internal Revenue Code, for certified historic
16 structures located in this state, as described in par. (a), but who is not a resident of
17 this state and who is not required to file a return under this chapter, may enter into
18 an agreement with another person, with the department of revenue's approval and
19 in the manner prescribed by the department, so that the other person may claim the
20 credit under this subsection, if the other person is subject to the taxes imposed under
21 s. 71.43.

22 **SECTION 22. Initial applicability.**

23 (1) This act first applies to taxable years beginning on January 1, 2003.

24

(END)