

2007 DRAFTING REQUEST

Bill

Received: 12/06/2006

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: lisa

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Property - credits

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kreuser@legis.wisconsin.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Create a homeowner's property tax credit and increase the amount of the school property income tax credit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 12/06/2006	wjackson 12/07/2006		_____			S&L
/1			sherritz 12/07/2006	_____	sbasford 12/07/2006	cduerst 03/06/2007	

FE Sent For: "/1" @ intro. 7-11-2007

<END>

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1?	jkreye	1 Wlj 12/16	Ah 12/7	Ah/og 12/7			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

12-6-06

Ann — Krumm's office 6-5509

AB565 — 1985/2

homeowner's credit (property tax)



1043/1

in 12-6-06

D-N

LPS:
Please
PWF

2005 ASSEMBLY BILL 565

July 18, 2005 - Introduced by Representatives BLACK, SHILLING, KREUSER, BENEDICT, BERCEAU, BOYLE, FIELDS, GRIGSBY, HEBL, KESSLER, LEHMAN, MOLEPSKE, NELSON, PARISI, POCAN, POPE-ROBERTS, RICHARDS, SEIDEL, SHERMAN, SINICKI, STASKUNAS, TOLES, TURNER, VRUWINK, YOUNG and ZEPNICK, cosponsored by Senators DECKER, ROBSON, BRESKE, CARPENTER, ERPENBACH, HANSEN, JAUCH, MILLER, RISSER, TAYLOR, WIRCH and LASSA. Referred to Joint Committee on Finance.

Other

Regen

1 AN ACT *to amend* 71.07 (9) (b) 5., 74.09 (3) (b) 6., 79.10 (1) (dm), 79.10 (1m), 79.10
 2 (2), 79.10 (6m) (a), 79.10 (9) (c) 1., 79.10 (10) (title), 79.10 (10) (a), 79.10 (10) (b),
 3 79.10 (10) (bm), 79.10 (10) (bn), 79.10 (10) (c), 79.10 (10) (e) 2. and 79.10 (10) (f);
 4 and *to create* 20.835 (3) (bm), 79.10 (5m), 79.10 (7m) (c) and 79.10 (9) (bn) of
 5 the statutes; **relating to:** creating a homeowner's property tax credit,
 6 increasing the amount of the school property income tax credit, and making an
 7 appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a homeowner's tax credit. Under the bill, a person who owns property in this state that the person uses as a principal dwelling may claim the homeowner's credit as a credit against the property taxes imposed on his or her principal dwelling. The amount of the credit is based on the fair market value of the person's principal dwelling, up to a fair market value of \$60,000.

Under current law, a person may claim an income tax credit based on the amount of property taxes or rent paid on the person's principal dwelling. The amount of the credit is equal to 12 percent of the first \$2,500 of property taxes or rent paid on the person's principal dwelling, or, for married persons filing separately, 12 percent of the first \$1,250 of property taxes or rent paid on the person's principal dwelling. Under the bill, with regard to rent paid on a person's principal dwelling,

ASSEMBLY BILL 565

the amount of the credit is equal to 16 percent of the first \$2,500 of rent paid on the person's principal dwelling, or, for married persons filing separately, 16 percent of the first \$1,250 of rent paid on the person's principal dwelling.

For further information see the *state and local* 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.** 20.835 (3) (bm) of the statutes is created to read:

2 20.835 (3) (bm) *Homeowner's tax credit*. A sum sufficient to make the payments

3 under s. 79.10 (5m) and ~~(6m)~~ (c). *(7m)*

4 **SECTION 2.** 71.07 (9) (b) 5. of the statutes is amended to read:

5 71.07 (9) (b) 5. For taxable years beginning after December 31, 1999, subject

6 to the limitations under this subsection a claimant may claim as a credit against, but

7 not to exceed the amount of, taxes under s. 71.02, 12% 12 percent of the first \$2,500

8 of property taxes or 16 percent of the first \$2,500 of rent constituting property taxes,

9 or 12% except that a married person filing separately may claim 12 percent of the

10 first \$1,250 of property taxes or 16 percent of the first \$1,250 of rent constituting

11 property taxes of a married person filing separately.

12 **SECTION 3.** 74.09 (3) (b) 6. of the statutes is amended to read:

13 74.09 (3) (b) 6. The amount of the credit credits under s. 79.10 (5) and (5m)

14 allocable to the property for the previous year and the current year, and the

15 percentage change between those years.

16 **SECTION 4.** 79.10 (1) (dm) of the statutes is amended to read:

17 79.10 (1) (dm) "Principal dwelling" means any dwelling that is used by the

18 owner of the dwelling as a primary residence on January 1 of the year preceding the

ASSEMBLY BILL 565

1 allocation of a credit credits under sub. (9) (bm) and (bn) and includes improvements
2 that are classified, under ch. 70, as taxable real property or personal property.

3 **SECTION 5.** 79.10 (1m) of the statutes is amended to read:

4 79.10 **(1m)** (a) Each municipality shall notify the department of revenue of the
5 total amount of credits allocated under sub. (9) (bm) and (bn).

6 (b) Counties and municipalities shall submit to the department of revenue all
7 data related to the lottery and gaming credit and homeowner's tax credit that is
8 requested by the department of revenue.

9 **SECTION 6.** 79.10 (2) of the statutes is amended to read:

10 79.10 **(2)** NOTICE TO MUNICIPALITIES. On or before December 1 of the year
11 preceding the distribution under sub. (7m) (a), the department of revenue shall
12 notify the clerk of each town, village and city of the estimated fair market value, as
13 determined under sub. (11), to be used to calculate the lottery and gaming credit
14 under sub. (5) and the homeowner's tax credit under sub. (5m) and of the amount to
15 be distributed to it under sub. (7m) (a) on the following 4th Monday in July. The
16 anticipated receipt of such distribution shall not be taken into consideration in
17 determining the tax rate of the municipality but shall be applied as tax credits.

18 **SECTION 7.** 79.10 (5m) of the statutes is created to read:

19 79.10 **(5m)** HOMEOWNER'S TAX CREDIT. Each municipality shall receive, from the
20 appropriation under s. 20.835 (3) (bm), an amount determined by multiplying the
21 school tax rate by the estimated fair market value, determined under sub. (11), but
22 not to exceed \$60,000, of every principal dwelling that is located in the municipality
23 and for which a claim for the credit under sub. (9) (bn) is made by the owner of the
24 principal dwelling.

25 **SECTION 8.** 79.10 (6m) (a) of the statutes is amended to read:

ASSEMBLY BILL 565**SECTION 8**

1 79.10 **(6m)** (a) Except as provided in pars. (b) and (c), if the department of
2 administration or the department of revenue determines by October 1 of the year of
3 any distribution under subs. (4) ~~and~~, (5), and (5m) that there was an overpayment
4 or underpayment made in that year's distribution by the department of
5 administration to municipalities, as determined under subs. (4) ~~and~~, (5), and (5m),
6 because of an error by the department of administration, the department of revenue,
7 or any municipality, the overpayment or underpayment shall be corrected as
8 provided in this paragraph. Any overpayment shall be corrected by reducing the
9 subsequent year's distribution, as determined under subs. (4) ~~and~~, (5), and (5m), by
10 an amount equal to the amount of the overpayment. Any underpayment shall be
11 corrected by increasing the subsequent year's distribution, as determined under
12 subs. (4) ~~and~~, (5), and (5m), by an amount equal to the amount of the underpayment.
13 Corrections shall be made in the distributions to all municipalities affected by the
14 error. Corrections shall be without interest.

15 **SECTION 9.** 79.10 (7m) (c) of the statutes is created to read:

16 79.10 **(7m)** (c) *Homeowner's tax credit.* 1. The amount determined under sub.
17 (5m) with respect to claims filed for which the town, village, or city has furnished
18 notice under sub. (1m) by March 1 shall be distributed from the appropriation under
19 s. 20.835 (3) (bm) by the department of administration on the 4th Monday in March.

20 2. The town, village, or city treasurer shall settle for the amounts distributed
21 on the 4th Monday in March under this paragraph with each taxing jurisdiction
22 within the taxation district or provide the amounts distributed to the appropriate
23 county treasurer for settlement not later than April 15. Failure to settle timely under
24 this subdivision subjects the town, village, or city treasurer to the penalties under

ASSEMBLY BILL 565

1 s. 74.31. On or before August 20, the county treasurer shall settle with each taxing
2 jurisdiction, including towns, villages, and cities except 1st class cities, in the county.

3 SECTION 10. 79.10 (9) (bn) of the statutes is created to read:

4 79.10 (9) (bn) *Homeowner's tax credit.* Except as provided in ss. 79.175 and
5 79.18, a homeowner's tax credit shall be allocated to every principal dwelling for
6 which a credit is claimed under sub. (10) in an amount determined by multiplying
7 the estimated fair market value of the principal dwelling, as determined under sub.
8 (11), but not to exceed \$60,000, by the school tax rate.

9 SECTION 11. 79.10 (9) (c) 1. of the statutes is amended to read:

10 79.10 (9) (c) 1. The lottery and gaming credit under par. (bm) and the
11 homeowner's tax credit under par. (bn) shall reduce the property taxes otherwise
12 payable on property that is eligible for that credit and if the property owner
13 completes the information required under sub. (10) (a) or (b).

14 SECTION 12. 79.10 (10) (title) of the statutes is amended to read:

15 79.10 (10) (title) CLAIMING THE LOTTERY AND GAMING CREDIT AND THE
16 HOMEOWNER'S TAX CREDIT.

17 SECTION 13. 79.10 (10) (a) of the statutes is amended to read:

18 79.10 (10) (a) ~~Beginning with property taxes levied in 1999, the~~ The owner of
19 a principal dwelling may claim the ~~credit~~ credits under sub. (9) (bm) and (bn) by
20 applying for the ~~credit~~ credits on a form prescribed by the department of revenue.
21 A claimant shall attest that, as of the certification date, the claimant is an owner of
22 property and that such property is used by the owner in the manner specified under
23 sub. (1) (dm). The certification date is January 1 of the year in which the property
24 taxes are levied. The claimant shall file the application for the ~~lottery and gaming~~
25 ~~credit~~ credits with the treasurer of the county in which the property is located or, if

ASSEMBLY BILL 565

SECTION 13

1 the property is located in a city that collects taxes under s. 74.87, with the treasurer
2 of the city in which the property is located. Subject to review by the department of
3 revenue, a treasurer who receives a completed application shall direct that the
4 property described in the application be identified on the next tax roll as property for
5 which the owner is entitled to receive a lottery and gaming credit credits. A claim
6 that is made under this paragraph is valid for as long as the property is eligible for
7 the credit credits under sub. (9) (bm) and (bn).

8 **SECTION 14.** 79.10 (10) (b) of the statutes is amended to read:

9 79.10 **(10)** (b) A person who becomes eligible for a credit credits under sub. (9)
10 (bm) and (bn) may claim the credit credits by filing an application, on a form
11 prescribed by the department of revenue, with the treasurer of the county in which
12 the property is located or, if the property is located in a city that collects taxes under
13 s. 74.87, with the treasurer of the city in which the property is located. Claims made
14 under this paragraph are valid for as long as the property is eligible for the credit
15 credits under sub. (9) (bm) and (bn).

16 **SECTION 15.** 79.10 (10) (bm) of the statutes is amended to read:

17 79.10 **(10)** (bm) 1. A person who is eligible for a credit credits under sub. (9) (bm)
18 and (bn) but whose property tax bill does not reflect the credit credits may claim the
19 credit credits by applying to the treasurer of the taxation district in which the
20 property is located for the credit credits under par. (a) by January 31 following the
21 issuance of the person's property tax bill. The treasurer shall compute the amount
22 of the credit credits; subtract the amount of the credit credits from the person's
23 property tax bill; notify the person of the reduced amount of the property taxes due;
24 issue a refund to the person if the person has paid the property taxes in full; and enter
25 the person's property on the next tax roll as property that qualifies for a lottery and

ASSEMBLY BILL 565

1 gaming credit and a homeowner's tax credit. Claims made under this subdivision
2 are valid for as long as the property is eligible for the ~~credit~~ credits under sub. (9) (bm)
3 and (bn).

4 2. A person who may apply for a ~~credit~~ credits under subd. 1. but who does not
5 timely apply for the ~~credit~~ credits under subd. 1. may apply to the department of
6 revenue no later than October 1 following the issuance of the person's property tax
7 bill. Subject to review by the department, the department shall compute the amount
8 of the ~~credit~~ credits; issue a check to the person in the amount of the ~~credit~~ credits;
9 and notify the treasurer of the county in which the person's property is located or the
10 treasurer of the taxation district in which the person's property is located, if the
11 taxation district collects taxes under s. 74.87. The treasurer shall enter the person's
12 property on the next tax roll as property that qualifies for a lottery and gaming credit
13 and a homeowner's tax credit. Claims made under this subdivision are valid for as
14 long as the property is eligible for the ~~credit~~ credits under sub. (9) (bm) and (bn).

15 **SECTION 16.** 79.10 (10) (bn) of the statutes is amended to read:

16 79.10 **(10)** (bn) 1. If a person who owns and uses property as specified under
17 sub. (1) (dm), as of the certification date under par. (a), transfers the property after
18 the certification date, the transferee may apply to the treasurer of the county in
19 which the property is located or, if the property is located in a city that collects taxes
20 under s. 74.87, to the treasurer of the city in which the property is located for the
21 ~~credit~~ credits under sub. (9) (bm) and (bn) on a form prescribed by the department
22 of revenue. The transferee shall attest that, to the transferee's knowledge, the
23 transferor used the property in the manner specified under sub. (1) (dm) as of the
24 certification date under par. (a). A claim that is made under this subdivision is valid
25 for as long as the property is eligible for the ~~credit~~ credits under sub. (9) (bm) and (bn).

ASSEMBLY BILL 565

SECTION 16

1 2. A person who is eligible for a credit credits under subd. 1. but whose property
2 tax bill does not reflect the credit credits may claim the credit credits by applying to
3 the treasurer of the taxation district in which the property is located for the credit
4 credits by January 31 following the issuance of the person's property tax bill. Claims
5 made after January 31, but no later than October 1 following the issuance of the
6 person's property tax bill, shall be made to the department of revenue. Paragraph
7 (bm), as it applies to processing claims made under that paragraph, applies to
8 processing claims made under this subdivision.

9 **SECTION 17.** 79.10 (10) (c) of the statutes is amended to read:

10 79.10 (10) (c) If a person who is certified under par. (a) to claim the credit credits
11 under sub. (9) (bm) and (bn) becomes ineligible for the credit credits under sub. (9)
12 (bm) and (bn), that person shall, within 30 days of becoming ineligible, notify the
13 treasurer of the county in which the property is located or, if the property is located
14 in a city that collects taxes under s. 74.87, the treasurer of the city in which the
15 property is located.

16 **SECTION 18.** 79.10 (10) (e) 2. of the statutes is amended to read:

17 79.10 (10) (e) 2. The certification procedure includes a procedure that is similar
18 in effect to the procedure described in ~~par.~~ pars. (bm) and (bn).

19 **SECTION 19.** 79.10 (10) (f) of the statutes is amended to read:

20 79.10 (10) (f) Each county and city that administers the credit credits under
21 sub. (9) (bm) and (bn) shall implement a procedure to periodically verify the
22 eligibility of properties for which a credit is claimed. In 2004, and every 5th year
23 thereafter, each county and city that administers the credit credits under sub. (9)
24 (bm) and (bn) shall file a report with the department of revenue, in the manner and
25 at the time prescribed by the department of revenue, that describes the procedures

ASSEMBLY BILL 565

1 that the county or city uses to verify the credits claimed under this subsection and
2 evaluates the efficacy of such procedures.

SECTION 20. Nonstatutory provisions.

3
4 (1) HOMEOWNER'S TAX CREDIT. An application for the lottery and gaming credit
5 under section 79.10 (10), ~~2003~~²⁰⁰⁵ stats., shall be considered to be an application for the
6 homeowner's tax credit under section 79.10 (10) of the statutes, as affected by this
7 act, and any valid claim for the lottery and gaming credit under section 79.10 (10),
8 ~~2003~~²⁰⁰⁵ stats., shall be considered to be a valid claim for the homeowner's tax credit
9 under section 79.10 (10) of the statutes, as affected by this act.

10 (2) REPORT. Notwithstanding section 13.52 (5) and (6) of the statutes, the joint
11 survey committee on tax exemptions shall prepare a report that, to provide funding
12 for the homeowner's tax credit under section 79.10 (5) of the statutes, as affected by
13 this act, recommends changes to the corporate income and franchise taxes imposed
14 by this state, not including any increase in corporate income or franchise tax rates,
15 and repealing certain sales and use tax exemptions that primarily affect
16 corporations. The committee shall submit the report to the legislature no later than
17 60 days after the effective date of this subsection.

SECTION 21. Initial applicability.

18
19 (1) HOMEOWNER'S TAX CREDIT. The treatment of sections 20.835 (3) (bm), 74.09
20 (3) (b) 6., and 79.10 (1) (dm), (1m), (2), (5m), (6m) (a), (7m) (c), (9) (bn) and (c) 1., and
21 (10) (title), (a), (b), (bm), (bn), (c), (e) 2., and (f) of the statutes first applies to property
22 taxes levied in ~~2005~~²⁰⁰⁷

23 (2) SCHOOL PROPERTY INCOME TAX CREDIT. The treatment of section 71.07 (9) (b)
24 5. of the statutes first applies to taxable years beginning on January 1, ~~2006~~²⁰⁰⁸

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1985/P1dn

JK:wlj:rs

↑
Stays

~~February 14, 2005~~

Representative ~~Black~~ ^{Kreuser}

Please review this draft carefully to ensure that it is consistent with your intent.

Also, please be aware that the homeowner's tax credit, as created in the bill, could be challenged as a violation of the uniformity clause of article VIII, section 1, of the Wisconsin Constitution. The uniformity clause requires that the taxation of real property be uniform.

The Wisconsin Supreme Court has held that reducing the taxes on some property but not exempting the property is a partial exemption that violates the uniformity clause. See *State ex rel. La Follette v. Torphy*, 85 Wis. 2d 94, 105-108 (1978) and *Gottlieb v. Milwaukee*, 33 Wis. 2d 408, 427-428 (1859). A court could find that the homeowner's tax credit created in the bill creates a partial exemption because it disproportionately reduces the tax liability of homeowners. In other words, because the credit is based on the first \$60,000 of property value, a homeowner whose property is valued at \$60,000, for example, will receive a credit that represents a greater percentage of his or her total tax liability than a homeowner whose property value exceeds \$60,000. See also, 52 Opinion of the Attorney General 143 (1963) which opines that exempting the first \$3,750 of the assessed value of homesteads creates a partial exemption.

Please also note that, although revenue from the lottery fund is not subject to the uniformity clause, revenue from the general fund is. Therefore, using general fund revenue to pay for a portion of a tax credit that is provided only to homeowners may also violate the uniformity clause.

Although I am not certain how a court would rule on a constitutional challenge to the bill, should it become law, you should be aware of possible challenges to the bill. Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1043/1dn
JK:wlj:sh

December 7, 2006

Representative Kreuser:

Please review this draft carefully to ensure that it is consistent with your intent.

Also, please be aware that the homeowner's tax credit, as created in the bill, could be challenged as a violation of the uniformity clause of article VIII, section 1, of the Wisconsin Constitution. The uniformity clause requires that the taxation of real property be uniform.

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Please also note that, although revenue from the lottery fund is not subject to the uniformity clause, revenue from the general fund is. Therefore, using general fund revenue to pay for a portion of a tax credit that is provided only to homeowners may also violate the uniformity clause.

Although I am not certain how a court would rule on a constitutional challenge to the bill, should it become law, you should be aware of possible challenges to the bill. Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Duerst, Christina

From: Lundquist, Lisa
Sent: Tuesday, March 06, 2007 2:57 PM
To: LRB.Legal
Subject: Jacket Request

We would like to get LRB 1043/1 re: creating a homeowners' property tax credit.... jacketed for the Assembly.

Thank you,

Lisa
Office of Rep. Kreuser
266-5504