

2007 ASSEMBLY BILL 762

February 4, 2008 – Introduced by Representatives DAVIS, SHILLING, NYGREN, HAHN and BALLWEG, cosponsored by Senators LASSA, RISSER, ROESSLER and TAYLOR. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 44.02 (24), 71.07 (9m) (c), 71.07 (9m) (f), 71.28 (6) (c), 71.28 (6)
2 (f), 71.47 (6) (c) and 71.47 (6) (f); and *to create* 71.07 (9m) (cm), 71.28 (6) (cm)
3 and 71.47 (6) (cm) of the statutes; **relating to:** the income and franchise tax
4 credit that supplements the federal historic rehabilitation tax credit.

Analysis by the Legislative Reference Bureau

Under current law, a person who owns an income-producing historic building may claim a federal income tax credit that is equal to 20 percent of certain costs to rehabilitate the historic building. To claim the credit, the building must be listed, or be eligible for listing, on the national register of historic places or located in certain national, state, or local historic districts and the rehabilitation work must comply with standards established by the secretary of the interior.

Under current law, a person who may claim the federal income tax credit for rehabilitating an income-producing historic building may also claim a state income tax or franchise tax credit that is equal to 5 percent of certain costs to rehabilitate the historic building. To claim the credit, the person must include with the person's tax return evidence that the secretary of the interior approved the rehabilitation work before the rehabilitation work began.

Under this bill, a person may claim the state income and franchise tax credit for rehabilitating an income-producing historic building, if the person includes with the person's tax return evidence that the state historic preservation officer recommended the rehabilitation work for approval by the secretary of the interior

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before the rehabilitation work began and that the rehabilitation was approved by the secretary of the interior.

Under current law, each partner in a partnership or member of a limited liability company is allocated a portion of any tax credit that the partnership or limited liability company may claim, including the credit for rehabilitating a historic building, based on each partner's ownership interest. Under this bill, a partner or member may also be allocated a portion of the tax credit for rehabilitating a historic building in a manner specified in an agreement with the other partners or members.

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.** 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.~~ 71.07 (9m) and (9r), 71.28 (6), and 71.47 (6). These
5 standards shall be substantially similar to the standards used by the secretary of the
6 interior to certify rehabilitations under 26 USC 47 (c) (2).

7 **SECTION 2.** 71.07 (9m) (c) of the statutes is amended to read:

8 71.07 **(9m)** (c) No person may claim the credit under this subsection unless the
9 claimant includes with the claimant's return evidence that the rehabilitation was
10 approved recommended by the state historic preservation officer for approval by the
11 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
12 or destruction in preparation for construction, began and that the rehabilitation was
13 approved by the secretary of the interior under 36 CFR 67.6.

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

15 71.07 **(9m)** (cm) Any credit claimed under this subsection for Wisconsin
16 purposes shall be claimed at the same time as for federal purposes.

17 **SECTION 4.** 71.07 (9m) (f) of the statutes is amended to read:

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1 71.07 **(9m)** (f) A partnership, limited liability company, or tax-option
2 corporation may not claim the credit under this subsection. The individual partners
3 of a partnership, members ~~in~~ of a limited liability company, or shareholders in a
4 tax-option corporation may claim the credit under this subsection based on eligible
5 costs incurred by the partnership, company, or tax-option corporation. For
6 shareholders of a tax-option corporation, the credit may be allocated in proportion
7 to the ownership interest of each partner, member or shareholder. The partnership,
8 limited liability company, or tax-option corporation shall calculate the amount of the
9 credit which may be claimed by each partner, member, or shareholder and shall
10 provide that information to the partner, member, or shareholder. Credits computed
11 by a partnership or limited liability company shall be allocated to partners or
12 members as provided in a written agreement among the partners or members that
13 is entered into no later than the last day of the taxable year of the partnership or
14 limited liability company. Any partner or member who claims the credit as provided
15 under this subsection shall attach a copy of the agreement to the tax return on which
16 the credit is claimed. A person claiming the credit as provided under this paragraph
17 is solely responsible for any tax liability arising from a dispute with the department
18 of revenue related to claiming the credit.

19 **SECTION 5.** 71.28 (6) (c) of the statutes is amended to read:

20 71.28 **(6)** (c) No person may claim the credit under this subsection unless the
21 claimant includes with the claimant's return evidence that the rehabilitation was
22 approved recommended by the state historic preservation officer for approval by the
23 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
24 or destruction in preparation for construction, began and that the rehabilitation was
25 approved by the secretary of the interior under 36 CFR 67.6.

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

2 71.28 **(6)** (cm) Any credit claimed under this subsection for Wisconsin purposes
3 shall be claimed at the same time as for federal purposes.

4 **SECTION 7.** 71.28 (6) (f) of the statutes is amended to read:

5 71.28 **(6)** (f) A partnership, limited liability company, or tax-option corporation
6 may not claim the credit under this ~~section~~ subsection. The ~~individual~~ partners of
7 a partnership, members of a limited liability company, or shareholders in a
8 tax-option corporation may claim the credit under this subsection based on eligible
9 costs incurred by the partnership, limited liability company, or tax-option
10 corporation. For shareholders of a tax-option corporation, the credit may be
11 allocated in proportion to the ownership interest of each ~~partner, member or~~
12 ~~shareholder~~. The partnership, limited liability company, or tax-option corporation
13 shall calculate the amount of the credit which may be claimed by each partner,
14 member, or shareholder and shall provide that information to the partner, member,
15 or shareholder. Credits computed by a partnership or limited liability company shall
16 be allocated to partners or members as provided in a written agreement among the
17 partners or members that is entered into no later than the last day of the taxable year
18 of the partnership or limited liability company. Any partner or member who claims
19 the credit as provided under this subsection shall attach a copy of the agreement to
20 the tax return on which the credit is claimed. A person claiming the credit as
21 provided under this paragraph is solely responsible for any tax liability arising from
22 a dispute with the department of revenue related to claiming the credit.

23 **SECTION 8.** 71.47 (6) (c) of the statutes is amended to read:

24 71.47 **(6)** (c) No person may claim the credit under this subsection unless the
25 claimant includes with the claimant's return evidence that the rehabilitation was

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1 approved recommended by the state historic preservation officer for approval by the
2 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
3 or destruction in preparation for construction, began and that the rehabilitation was
4 approved by the secretary of the interior under 36 CFR 67.6.

5 **SECTION 9.** 71.47 (6) (cm) of the statutes is created to read:

6 71.47 (6) (cm) Any credit claimed under this subsection for Wisconsin purposes
7 shall be claimed at the same time as for federal purposes.

8 **SECTION 10.** 71.47 (6) (f) of the statutes is amended to read:

9 71.47 (6) (f) A partnership, limited liability company, or tax-option corporation
10 may not claim the credit under this subsection. The individual partners of a
11 partnership, members of a limited liability company, or shareholders in a tax-option
12 corporation may claim the credit under this subsection based on eligible costs
13 incurred by the partnership, limited liability company, or tax-option corporation.
14 For shareholders of a tax-option corporation, the credit may be allocated in
15 proportion to the ownership interest of each partner, member or shareholder. The
16 partnership, limited liability company, or tax-option corporation shall calculate the
17 amount of the credit which may be claimed by each partner, member, or shareholder
18 and shall provide that information to the partner, member, or shareholder. Credits
19 computed by a partnership or limited liability company shall be allocated to partners
20 or members as provided in a written agreement among the partners or members that
21 is entered into no later than the last day of the taxable year of the partnership or
22 limited liability company. Any partner or member who claims the credit as provided
23 under this subsection shall attach a copy of the agreement to the tax return on which
24 the credit is claimed. A person claiming the credit as provided under this paragraph

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SECTION 10

1 is solely responsible for any tax liability arising from a dispute with the department
2 of revenue related to claiming the credit.

3 **SECTION 11. Initial applicability.**

4 (1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. This act first
5 applies to taxable years beginning on January 1, 2008, and to property placed in
6 service on January 1, 2008.

7 (END)