

2007 SENATE BILL 506

February 19, 2008 – Introduced by Senators LEIBHAM, SCHULTZ, KEDZIE, A. LASEE and ROESSLER, cosponsored by Representatives ALBERS, GUNDERSON, HAHN, OWENS, TOWNSEND and WOOD. Referred to Committee on Judiciary, Corrections, and Housing.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
 2 (a) 10. and 77.92 (4); and **to create** 71.07 (3r), 71.10 (4) (cr), 71.28 (3r), 71.30
 3 (3) (dn), 71.47 (3r) and 71.49 (1) (dn) of the statutes; **relating to:** income and
 4 franchise tax credits for insulating concrete forms used to construct a building
 5 and energy efficient products.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit equal to the amount that the taxpayer pays in the taxable year to purchase or manufacture insulating concrete forms used to construct a building and energy efficient products. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but may claim the amount of any unused credit in subsequent taxable years.

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:

6 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2007 Wisconsin Act
 7 20, is amended to read:

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1 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3n), (3p), (3r), (3s), (3t), (3w),
3 (5e), (5f), (5h), (5i), (5j), and (5k) and not passed through by a partnership, limited
4 liability company, or tax-option corporation that has added that amount to the
5 partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or
6 71.34 (1) (g).

7 **SECTION 2.** 71.07 (3r) of the statutes is created to read:

8 71.07 **(3r)** INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

9 (a) *Definitions.* In this subsection:

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

11 2. "Insulating concrete form" means a hollow expandable polystyrene form
12 system that is filled with concrete and includes the concrete used to fill the form.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
15 amount of the taxes, an amount equal to the amount that the claimant paid in the
16 taxable year to purchase any of the following for use in this state or to manufacture
17 any of the following in this state:

18 1. Insulating concrete forms used to construct the insulated exterior walls of
19 any building.

20 2. Any item of tangible personal property that is governed by and satisfies any
21 of the following standards for energy efficiency:

22 a. The 2001 supplement of the 2000 International Energy Conservation Code.

23 b. The 2004 supplement of the 2003 International Energy Conservation Code.

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1 c. The 2007 energy efficiency guidelines established by the federal
2 environmental protection agency and the federal department of energy under the
3 Energy Star program.

4 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
5 item for which the person has received a rebate under any state program, including
6 a state program operated in conjunction with private entities.

7 2. Partnerships, limited liability companies, and tax–option corporations may
8 not claim the credit under this subsection, but the eligibility for, and the amount of,
9 the credit are based on their payment of the amounts described under par. (b). A
10 partnership, limited liability company, or tax–option corporation shall compute the
11 amount of credit that each of its partners, members, or shareholders may claim and
12 shall provide that information to each of them. Partners, members of limited liability
13 companies, and shareholders of tax–option corporations may claim the credit in
14 proportion to their ownership interests.

15 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
16 s. 71.28 (4), applies to the credit under this subsection.

17 **SECTION 3.** 71.10 (4) (cr) of the statutes is created to read:

18 71.10 (4) (cr) Insulating concrete forms and energy efficient products credit
19 under s. 71.07 (3r).

20 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
21 amended to read:

22 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
23 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3r), (3s), (3t), (3w), (5e), (5f), (5g),
24 (5h), (5i), (5j), and (5k) and passed through to partners shall be added to the
25 partnership's income.

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1 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
2 is amended to read:

3 71.26 **(2)** (a) *Corporations in general.* The “net income” of a corporation means
4 the gross income as computed under the Internal Revenue Code as modified under
5 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
6 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
7 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
8 under this paragraph at the time that the taxpayer first claimed the credit plus the
9 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
10 (1ds), (1dx), (3g), (3h), (3n), (3p), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k)
11 and not passed through by a partnership, limited liability company, or tax-option
12 corporation that has added that amount to the partnership’s, limited liability
13 company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1) (g) plus
14 the amount of losses from the sale or other disposition of assets the gain from which
15 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
16 otherwise disposed of at a gain and minus deductions, as computed under the
17 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
18 amount equal to the difference between the federal basis and Wisconsin basis of any
19 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
20 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

21 **SECTION 6.** 71.28 (3r) of the statutes is created to read:

22 71.28 **(3r)** INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.
23 (a) *Definitions.* In this subsection:

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

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1 2. “Insulating concrete form” means a hollow expandable polystyrene form
2 system that is filled with concrete and includes the concrete used to fill the form.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
4 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
5 amount of the taxes, an amount equal to the amount that the claimant paid in the
6 taxable year to purchase any of the following for use in this state or to manufacture
7 any of the following in this state:

8 1. Insulating concrete forms used to construct the insulated exterior walls of
9 any building.

10 2. Any item of tangible personal property that is governed by and satisfies any
11 of the following standards for energy efficiency:

12 a. The 2001 supplement of the 2000 International Energy Conservation Code.

13 b. The 2004 supplement of the 2003 International Energy Conservation Code.

14 c. The 2007 energy efficiency guidelines established by the federal
15 environmental protection agency and the federal department of energy under the
16 Energy Star program.

17 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
18 item for which the person has received a rebate under any state program, including
19 a state program operated in conjunction with private entities.

20 2. Partnerships, limited liability companies, and tax–option corporations may
21 not claim the credit under this subsection, but the eligibility for, and the amount of,
22 the credit are based on their payment of the amounts described under par. (b). A
23 partnership, limited liability company, or tax–option corporation shall compute the
24 amount of credit that each of its partners, members, or shareholders may claim and
25 shall provide that information to each of them. Partners, members of limited liability

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1 companies, and shareholders of tax–option corporations may claim the credit in
2 proportion to their ownership interests.

3 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
4 sub. (4), applies to the credit under this subsection.

5 **SECTION 7.** 71.30 (3) (dn) of the statutes is created to read:

6 71.30 (3) (dn) Insulating concrete forms and energy efficient products credit
7 under s. 71.28 (3r).

8 **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,
9 is amended to read:

10 71.34 (1) (g) An addition shall be made for credits computed by a tax–option
11 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
12 (3h), (3n), (3p), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and passed
13 through to shareholders.

14 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
15 20, is amended to read:

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

22 **SECTION 10.** 71.47 (3r) of the statutes is created to read:

23 71.47 (3r) INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

24 (a) *Definitions.* In this subsection:

25 1. “Claimant” means a person who files a claim under this subsection.

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1 2. “Insulating concrete form” means a hollow expandable polystyrene form
2 system that is filled with concrete and includes the concrete used to fill the form.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
4 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
5 amount of the taxes, an amount equal to the amount that the claimant paid in the
6 taxable year to purchase any of the following for use in this state or to manufacture
7 any of the following in this state:

8 1. Insulating concrete forms used to construct the insulated exterior walls of
9 any building.

10 2. Any item of tangible personal property that is governed by and satisfies any
11 of the following standards for energy efficiency:

12 a. The 2001 supplement of the 2000 International Energy Conservation Code.

13 b. The 2004 supplement of the 2003 International Energy Conservation Code.

14 c. The 2007 energy efficiency guidelines established by the federal
15 environmental protection agency and the federal department of energy under the
16 Energy Star program.

17 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
18 item for which the person has received a rebate under any state program, including
19 a state program operated in conjunction with private entities.

20 2. Partnerships, limited liability companies, and tax–option corporations may
21 not claim the credit under this subsection, but the eligibility for, and the amount of,
22 the credit are based on their payment of the amounts described under par. (b). A
23 partnership, limited liability company, or tax–option corporation shall compute the
24 amount of credit that each of its partners, members, or shareholders may claim and
25 shall provide that information to each of them. Partners, members of limited liability

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1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interests.

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

5 **SECTION 11.** 71.49 (1) (dn) of the statutes is created to read:

6 71.49 (1) (dn) Insulating concrete forms and energy efficient products credit
7 under s. 71.47 (3r).

8 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
9 amended to read:

10 77.92 (4) “Net business income,” with respect to a partnership, means taxable
11 income as calculated under section 703 of the Internal Revenue Code; plus the items
12 of income and gain under section 702 of the Internal Revenue Code, including taxable
13 state and municipal bond interest and excluding nontaxable interest income or
14 dividend income from federal government obligations; minus the items of loss and
15 deduction under section 702 of the Internal Revenue Code, except items that are not
16 deductible under s. 71.21; plus guaranteed payments to partners under section 707
17 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
18 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3r), (3s), (3n), (3p), (3t), (3w),
19 (5e), (5f), (5g), (5h), (5i), (5j), and (5k); and plus or minus, as appropriate, transitional
20 adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15),
21 (16), (17), and (19); but excluding income, gain, loss, and deductions from farming.
22 “Net business income,” with respect to a natural person, estate, or trust, means profit
23 from a trade or business for federal income tax purposes and includes net income
24 derived as an employee as defined in section 3121 (d) (3) of the Internal Revenue
25 Code.

