



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0351/2
MES&JK:nwn:rs

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 794**

March 29, 2010 – Offered by Representatives FRISKE and CLARK.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (6f), 71.10 (4) (cf), 71.28 (6f), 71.30
3 (3) (af), 71.47 (6f) and 71.49 (1) (af) of the statutes; **relating to:** creating a
4 nonrefundable individual and corporate income and franchise tax credit for
5 purchasing a thermal biomass heating system.

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 2009 Wisconsin Acts
7 2 and 28, is amended to read:

8 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
10 (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (6f), and (8r) and not passed through by a
11 partnership, limited liability company, or tax-option corporation that has added that

1 amount to the partnership’s, company’s, or tax-option corporation’s income under s.
2 71.21 (4) or 71.34 (1k) (g).

3 **SECTION 2.** 71.07 (6f) of the statutes is created to read:

4 71.07 (6f) THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
5 subsection:

6 1. “Air quality standards” means all requirements under ch. 285 and 42 USC
7 7401 to 7671q.

8 2. “Biomass” has the meaning given in s. 196.378 (1) (ar).

9 3. “Claimant” means a person who files a claim under this subsection.

10 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
11 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
12 amount of those taxes, one of the following amounts that the claimant paid in the
13 taxable year to purchase and install in the claimant’s primary residence in this state
14 or in the claimant’s place of business in this state a stove, furnace, or boiler that
15 generates heat from biomass by providing an energy efficiency conversion of at least
16 75 percent and meets any air quality standards that apply to the stove, furnace, or
17 boiler on the day on which the stove, furnace, or boiler is purchased:

18 1. For items that are installed in the claimant’s primary residence in this state:

19 a. For taxable years beginning after December 31, 2010, and before January
20 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
21 either 30 percent of such amounts or \$3,600, whichever is less.

22 b. For taxable years beginning after December 31, 2010, and before January
23 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
24 percent of such amounts or \$2,500, whichever is less.

1 c. For taxable years beginning after December 31, 2012, and before January
2 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
3 either 25 percent of such amounts or \$3,000, whichever is less.

4 d. For taxable years beginning after December 31, 2012, and before January
5 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
6 percent of such amounts or \$2,000, whichever is less.

7 e. For taxable years beginning after December 31, 2014, and before January
8 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
9 either 20 percent of such amounts or \$2,400, whichever is less.

10 f. For taxable years beginning after December 31, 2014, and before January 1,
11 2017, with regard to the amounts paid to purchase and install a stove, either 30
12 percent of such amounts or \$1,500, whichever is less.

13 2. For items that are installed on property that is assessed as commercial
14 property under s. 70.32 (2) (a) 2.:

15 a. For taxable years beginning after December 31, 2010, and before January
16 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
17 either 30 percent of such amounts or \$4,500, whichever is less.

18 b. For taxable years beginning after December 31, 2010, and before January
19 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
20 percent of such amounts or \$2,500, whichever is less.

21 c. For taxable years beginning after December 31, 2012, and before January
22 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
23 either 25 percent of such amounts or \$3,750, whichever is less.

1 d. For taxable years beginning after December 31, 2012, and before January
2 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
3 percent of such amounts or \$2,000, whichever is less.

4 e. For taxable years beginning after December 31, 2014, and before January
5 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
6 either 20 percent of such amounts or \$3,000, whichever is less.

7 f. For taxable years beginning after December 31, 2014, and before January 1,
8 2017, with regard to the amounts paid to purchase and install a stove, either 30
9 percent of the such amounts or \$1,500, whichever is less.

10 3. For items that are installed on property that is assessed as manufacturing
11 property under s. 70.995:

12 a. For taxable years beginning after December 31, 2010, and before January
13 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
14 either 30 percent of such amounts or \$45,000, whichever is less.

15 b. For taxable years beginning after December 31, 2010, and before January
16 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
17 percent of such amounts or \$2,500, whichever is less.

18 c. For taxable years beginning after December 31, 2012, and before January
19 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
20 either 25 percent of such amounts or \$37,500, whichever is less.

21 d. For taxable years beginning after December 31, 2012, and before January
22 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
23 percent of such amounts or \$2,000, whichever is less.

1 e. For taxable years beginning after December 31, 2014, and before January
2 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
3 either 20 percent of such amounts or \$30,000, whichever is less.

4 f. For taxable years beginning after December 31, 2014, and before January 1,
5 2017, with regard to the amounts paid to purchase and install a stove, either 30
6 percent of such amounts or \$1,500, whichever is less.

7 (c) *Limitations.* 1. No credit may be claimed under this subsection by a
8 part-year resident or a nonresident of this state for amounts paid to install a furnace,
9 boiler, or stove in the claimant's primary residence in this state.

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

18 3. a. The maximum amount of the credits that may be claimed under this
19 subsection for items installed in primary residences is \$2,000,000 in 2011,
20 \$5,000,000 in 2012, \$6,000,000 in 2013, \$7,000,000 in 2014, \$7,000,000 in 2015, and
21 \$6,000,000 in 2016, except that the department may allocate the amount of any
22 unused credits from one year to another year.

23 b. The maximum amount of the credits that may be claimed under this
24 subsection and ss. 71.28 (6f) and 71.47 (6f) for items installed on commercial or
25 manufacturing property is \$1,000,000 in 2011, \$2,000,000 in 2012, \$3,000,000 in

1 2013, \$4,000,000 in 2014, \$4,000,000 in 2015, and \$3,000,000 in 2016, except that
2 the department may allocate the amount of any unused credits from one year to
3 another year.

4 4. The department may prorate the amount of the credits claimed under this
5 subsection and ss. 71.28 (6f) and 71.47 (6f) so that the limitations under subd. 3. are
6 not exceeded.

7 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
8 credit under s. 71.28 (4), applies to the credit under this subsection.

9 2. If a credit computed under this subsection is not entirely offset against
10 Wisconsin income or franchise taxes otherwise due, the unused balance may be
11 carried forward and credited against Wisconsin income or franchise taxes otherwise
12 due for the following 3 taxable years to the extent not offset by these taxes otherwise
13 due in all intervening years between the year in which the expense was incurred and
14 the year in which the carry-forward credit is claimed.

15 (e) *Sunset.* No new claim may be filed under this subsection for taxable years
16 beginning after December 31, 2016.

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

18 71.10 (4) (cf) The thermal biomass heating systems credit under s. 71.07 (6f).

19 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and
20 28, is amended to read:

21 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
22 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
23 (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f), and (8r) and passed through to partners shall
24 be added to the partnership's income.

1 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Acts
2 and 28, is amended to read:

3 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
5 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f), and (8r) and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that
7 amount to the partnership's, limited liability company's, or tax-option corporation's
8 income under s. 71.21 (4) or 71.34 (1k) (g).

9 **SECTION 6.** 71.28 (6f) of the statutes is created to read:

10 71.28 **(6f)** THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
11 subsection:

12 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
13 7401 to 7671q.

14 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

15 3. "Claimant" means a person who files a claim under this subsection.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
17 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
18 amount of those taxes, one of the following amounts that the claimant paid in the
19 taxable year to purchase and install in the claimant's place of business in this state
20 a stove, furnace, or boiler that generates heat from biomass by providing an energy
21 efficiency conversion of at least 75 percent and meets any air quality standards that
22 apply to the stove, furnace, or boiler on the day on which the stove, furnace, or boiler
23 is purchased:

24 1. For items that are installed on property that is assessed as commercial
25 property under s. 70.32 (2) (a) 2.:

1 a. For taxable years beginning after December 31, 2010, and before January
2 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
3 either 30 percent of such amounts or \$4,500, whichever is less.

4 b. For taxable years beginning after December 31, 2010, and before January
5 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
6 percent of such amounts or \$2,500, whichever is less.

7 c. For taxable years beginning after December 31, 2012, and before January
8 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
9 either 25 percent of such amounts or \$3,750, whichever is less.

10 d. For taxable years beginning after December 31, 2012, and before January
11 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
12 percent of such amounts or \$2,000, whichever is less.

13 e. For taxable years beginning after December 31, 2014, and before January
14 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
15 either 20 percent of such amounts or \$3,000, whichever is less.

16 f. For taxable years beginning after December 31, 2014, and before January 1,
17 2017, with regard to the amounts paid to purchase and install a stove, either 30
18 percent of the such amounts or \$1,500, whichever is less.

19 2. For items that are installed on property that is assessed as manufacturing
20 property under s. 70.995:

21 a. For taxable years beginning after December 31, 2010, and before January
22 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
23 either 30 percent of such amounts or \$45,000, whichever is less.

1 b. For taxable years beginning after December 31, 2010, and before January
2 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
3 percent of such amounts or \$2,500, whichever is less.

4 c. For taxable years beginning after December 31, 2012, and before January
5 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
6 either 25 percent of such amounts or \$37,500, whichever is less.

7 d. For taxable years beginning after December 31, 2012, and before January
8 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
9 percent of such amounts or \$2,000, whichever is less.

10 e. For taxable years beginning after December 31, 2014, and before January
11 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
12 either 20 percent of such amounts or \$30,000, whichever is less.

13 f. For taxable years beginning after December 31, 2014, and before January 1,
14 2017, with regard to the amounts paid to purchase and install a stove, either 30
15 percent of such amounts or \$1,500, whichever is less.

16 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
17 corporations may not claim the credit under this subsection, but the eligibility for,
18 and the amount of, the credit are based on their payment of amounts under par. (b).
19 A partnership, limited liability company, or tax-option corporation shall compute
20 the amount of credit that each of its partners, members, or shareholders may claim
21 and shall provide that information to each of them. Partners, members of limited
22 liability companies, and shareholders of tax-option corporations may claim the
23 credit in proportion to their ownership interests.

24 2. The maximum amount of the credits that may be claimed under this
25 subsection and ss. 71.07 (6f) and 71.47 (6f) for items installed on commercial or

1 manufacturing property is \$1,000,000 in 2011, \$2,000,000 in 2012, \$3,000,000 in
2 2013, \$4,000,000 in 2014, \$4,000,000 in 2015, and \$3,000,000 in 2016, except that
3 the department may allocate the amount of any unused credits from one year to
4 another year.

5 3. The department may prorate the amount of the credits claimed under this
6 subsection and ss. 71.07 (6f) and 71.47 (6f) so that the limitations under subd. 2. are
7 not exceeded.

8 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
9 under sub. (4), applies to the credit under this subsection.

10 2. If a credit computed under this subsection is not entirely offset against
11 Wisconsin income or franchise taxes otherwise due, the unused balance may be
12 carried forward and credited against Wisconsin income or franchise taxes otherwise
13 due for the following 3 taxable years to the extent not offset by these taxes otherwise
14 due in all intervening years between the year in which the expense was incurred and
15 the year in which the carry-forward credit is claimed.

16 (e) *Sunset.* No new claim may be filed under this subsection for taxable years
17 beginning after December 31, 2016.

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

19 71.30 (3) (af) The thermal biomass heating systems credit under s. 71.28 (6f).

20 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Acts 2
21 and 28, is amended to read:

22 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
24 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f),
25 and (8r) and passed through to shareholders.

1 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Acts
2 and 28, is amended to read:

3 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
4 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (5e), (5f),
5 (5g), (5h), (5i), (5j), (5k), (6f), and (8r) and not passed through by a partnership,
6 limited liability company, or tax-option corporation that has added that amount to
7 the partnership's, limited liability company's, or tax-option corporation's income
8 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
9 (1), (3), (3t), (4), (4m), and (5).

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

11 71.47 (6f) THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
12 subsection:

13 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
14 7401 to 7671q.

15 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

16 3. "Claimant" means a person who files a claim under this subsection.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
18 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
19 amount of those taxes, one of the following amounts that the claimant paid in the
20 taxable year to purchase and install in the claimant's place of business in this state
21 a stove, furnace, or boiler that generates heat from biomass by providing an energy
22 efficiency conversion of at least 75 percent and meets any air quality standards that
23 apply to the stove, furnace, or boiler on the day on which the stove, furnace, or boiler
24 is purchased:

1 1. For items that are installed on property that is assessed as commercial
2 property under s. 70.32 (2) (a) 2.:

3 a. For taxable years beginning after December 31, 2010, and before January
4 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
5 either 30 percent of such amounts or \$4,500, whichever is less.

6 b. For taxable years beginning after December 31, 2010, and before January
7 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
8 percent of such amounts or \$2,500, whichever is less.

9 c. For taxable years beginning after December 31, 2012, and before January
10 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
11 either 25 percent of such amounts or \$3,750, whichever is less.

12 d. For taxable years beginning after December 31, 2012, and before January
13 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
14 percent of such amounts or \$2,000, whichever is less.

15 e. For taxable years beginning after December 31, 2014, and before January
16 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
17 either 20 percent of such amounts or \$3,000, whichever is less.

18 f. For taxable years beginning after December 31, 2014, and before January 1,
19 2017, with regard to the amounts paid to purchase and install a stove, either 30
20 percent of the such amounts or \$1,500, whichever is less.

21 2. For items that are installed on property that is assessed as manufacturing
22 property under s. 70.995:

23 a. For taxable years beginning after December 31, 2010, and before January
24 1, 2013, with regard to the amounts paid to purchase and install a furnace or boiler,
25 either 30 percent of such amounts or \$45,000, whichever is less.

1 b. For taxable years beginning after December 31, 2010, and before January
2 1, 2013, with regard to the amounts paid to purchase and install a stove, either 50
3 percent of such amounts or \$2,500, whichever is less.

4 c. For taxable years beginning after December 31, 2012, and before January
5 1, 2015, with regard to the amounts paid to purchase and install a furnace or boiler,
6 either 25 percent of such amounts or \$37,500, whichever is less.

7 d. For taxable years beginning after December 31, 2012, and before January
8 1, 2015, with regard to the amounts paid to purchase and install a stove, either 40
9 percent of such amounts or \$2,000, whichever is less.

10 e. For taxable years beginning after December 31, 2014, and before January
11 1, 2017, with regard to the amounts paid to purchase and install a furnace or boiler,
12 either 20 percent of such amounts or \$30,000, whichever is less.

13 f. For taxable years beginning after December 31, 2014, and before January 1,
14 2017, with regard to the amounts paid to purchase and install a stove, either 30
15 percent of such amounts or \$1,500, whichever is less.

16 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
17 corporations may not claim the credit under this subsection, but the eligibility for,
18 and the amount of, the credit are based on their payment of amounts under par. (b).
19 A partnership, limited liability company, or tax-option corporation shall compute
20 the amount of credit that each of its partners, members, or shareholders may claim
21 and shall provide that information to each of them. Partners, members of limited
22 liability companies, and shareholders of tax-option corporations may claim the
23 credit in proportion to their ownership interests.

24 2. The maximum amount of the credits that may be claimed under this
25 subsection and ss. 71.07 (6f) and 71.28 (6f) for items installed on commercial or

1 manufacturing property is \$1,000,000 in 2011, \$2,000,000 in 2012, \$3,000,000 in
2 2013, \$4,000,000 in 2014, \$4,000,000 in 2015, and \$3,000,000 in 2016, except that
3 the department may allocate the amount of any unused credits from one year to
4 another year.

5 3. The department may prorate the amount of the credits claimed under this
6 subsection and ss. 71.07 (6f) and 71.28 (6f) so that the limitations under subd. 2. are
7 not exceeded.

8 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
9 credit under s. 71.28 (4), applies to the credit under this subsection.

10 2. If a credit computed under this subsection is not entirely offset against
11 Wisconsin income or franchise taxes otherwise due, the unused balance may be
12 carried forward and credited against Wisconsin income or franchise taxes otherwise
13 due for the following 3 taxable years to the extent not offset by these taxes otherwise
14 due in all intervening years between the year in which the expense was incurred and
15 the year in which the carry-forward credit is claimed.

16 (e) *Sunset.* No new claim may be filed under this subsection for taxable years
17 beginning after December 31, 2016.

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

19 71.49 (1) (af) The thermal biomass heating systems credit under s. 71.47 (6f).

20 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and
21 28, is amended to read:

22 77.92 (4) “Net business income,” with respect to a partnership, means taxable
23 income as calculated under section 703 of the Internal Revenue Code; plus the items
24 of income and gain under section 702 of the Internal Revenue Code, including taxable
25 state and municipal bond interest and excluding nontaxable interest income or

1 dividend income from federal government obligations; minus the items of loss and
2 deduction under section 702 of the Internal Revenue Code, except items that are not
3 deductible under s. 71.21; plus guaranteed payments to partners under section 707
4 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
5 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
6 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (6f), and (8r); and plus or minus, as
7 appropriate, transitional adjustments, depreciation differences, and basis
8 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
9 loss, and deductions from farming. “Net business income,” with respect to a natural
10 person, estate, or trust, means profit from a trade or business for federal income tax
11 purposes and includes net income derived as an employee as defined in section 3121
12 (d) (3) of the Internal Revenue Code.

13

(END)