



2009 ASSEMBLY BILL 838

March 11, 2010 – Introduced by Representatives DAVIS, KERKMAN, NERISON, BIES, BROOKS, GUNDERSON, KNODL, LOTHIAN, SPANBAUER, TOWNSEND and VOS, cosponsored by Senators SCHULTZ and OLSEN. Referred to Joint Committee on Finance.

1 **AN ACT** *to amend* 71.08 (1) (intro.) and 71.10 (4) (i); and *to create* 20.835 (2) (cb)
2 and 71.07 (5p) of the statutes; **relating to:** creating a refundable individual
3 income tax credit for property taxes paid on a principal dwelling that is
4 destroyed by a natural or man-made disaster and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit that is equal to the amount of property taxes that an individual paid in the taxable year to which the claim relates on the claimant's principal dwelling that was destroyed by fire, flood, or other natural or man-made disaster.

No individual may claim the tax credit if the individual's principal dwelling is destroyed by the claimant's negligent or intentional act. In addition, no claim may be made for an amount that is, or will be, reimbursed under an insurance policy.

Because the credit is refundable, if the amount of the credit exceeds the individual's tax liability, the state will issue a check to the individual for the excess amount.

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:

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1 **SECTION 1.** 20.835 (2) (cb) of the statutes is created to read:

2 20.835 **(2)** (cb) *Destroyed principal dwelling tax credit.* A sum sufficient to pay
3 the claims approved under s. 71.07 (5p).

4 **SECTION 2.** 71.07 (5p) of the statutes is created to read:

5 71.07 **(5p)** DESTROYED PRINCIPAL DWELLING TAX CREDIT. (a) *Definitions.* In this
6 subsection:

7 1. “Claimant” means an individual who files a claim under this subsection.

8 2. “Destroyed” means a condition so damaged as to make a principal dwelling
9 uninhabitable.

10 3. “Principal dwelling” means any dwelling that is owned and the land
11 surrounding it that is reasonably necessary for use of the dwelling as a primary
12 dwelling of the claimant and may include a part of a multidwelling or multipurpose
13 building and a part of the land upon which it is built that is used as the claimant’s
14 primary dwelling.

15 4. “Property taxes” has the meaning given in s. 71.07 (9) (a) 3.

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. 71.02 or 71.08 the
18 amount of property taxes the claimant paid in the taxable year to which the claim
19 relates on the claimant’s principal dwelling that was destroyed by fire, flood, or other
20 natural or man-made disaster in the year to which the claim relates. If the allowable
21 amount of the claim exceeds the income taxes otherwise due on the claimant’s
22 income, the amount of the claim not used as an offset against those taxes shall be
23 certified by the department of revenue to the department of administration for
24 payment to the claimant by check, share draft, or other draft drawn from the
25 appropriation under s. 20.835 (2) (cb).

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1 (c) *Limitations.* 1. No claim may be allowed under this subsection if the
2 principal dwelling to which the claim relates was destroyed by the claimant's
3 negligent or intentional act.

4 2. No credit may be claimed under this subsection for any amounts for which
5 the claimant received, or will receive, payment or reimbursement under an
6 insurance policy.

7 3. No credit may be allowed under this subsection unless it is claimed within
8 the time period under s. 71.75 (2).

9 (d) *Administration.* Subsection (5m) (d), as it applies to the credit under that
10 subsection, applies to the credit under this subsection.

11 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
12 28, is amended to read:

13 **71.08 (1) IMPOSITION.** (intro.) If the tax imposed on a natural person, married
14 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
15 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
16 (3q), (3r), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5p), (6), (6e), (8r), and (9e),
17 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
18 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w),
19 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under s.
20 71.07 (7), is less than the tax under this section, there is imposed on that natural
21 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
22 an alternative minimum tax computed as follows:

23 **SECTION 4.** 71.10 (4) (i) of the statutes, as affected by 2009 Wisconsin Act 28,
24 is amended to read:

ASSEMBLY BILL 838**SECTION 4**

1 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
2 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
3 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
4 credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s.
5 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
6 credit under s. 71.07 (3r), film production services credit under s. 71.07 (5f), film
7 production company investment credit under s. 71.07 (5h), destroyed principal
8 dwelling tax credit under s. 71.07 (5p), veterans and surviving spouses property tax
9 credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), beginning
10 farmer and farm asset owner tax credit under s. 71.07 (8r), earned income tax credit
11 under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under
12 subch. X.

SECTION 5. Initial applicability.

13 (1) This act first applies to taxable years beginning on January 1 of the year
14 in which this subsection takes effect, except that if this subsection takes effect after
15 July 31 this act first applies to taxable years beginning on January 1 of the year
16 following the year in which this subsection takes effect.

17
18 **(END)**