



State of Wisconsin
2013 - 2014 LEGISLATURE

October 2013 Special Session



LRB-3423/en
SRM:kjf...

ASSEMBLY BILL 4

1 **AN ACT** *to repeal* 71.07 (9m) (a) 1. and 2., 71.28 (6) (a) 1. and 2. and 71.47 (6) (a)
2 1. and 2.; *to renumber* 71.10 (4) (dm); *to renumber and amend* 71.07 (9m)
3 (a) (intro.), 71.07 (9m) (c), 71.28 (6) (a) (intro.), 71.28 (6) (c), 71.47 (6) (a) (intro.)
4 and 71.47 (6) (c); *to amend* 71.07 (9m) (g) 2., 71.08 (1) (intro.), 71.28 (6) (g) 2.
5 and 71.47 (6) (g) 2.; and *to create* 71.07 (9m) (a) 2m., 71.07 (9m) (a) 3., 71.07
6 (9m) (c) 2., 71.07 (9m) (h), 71.28 (6) (a) 2m., 71.28 (6) (a) 3., 71.28 (6) (c) 2., 71.28
7 (6) (h), 71.47 (6) (a) 2m., 71.47 (6) (a) 3., 71.47 (6) (c) 2., 71.47 (6) (h) and 238.17
8 of the statutes; **relating to:** increasing the amount of the supplement to the
9 federal historic rehabilitation tax credit.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

10 **SECTION 1.** 71.07 (9m) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
11 Act 20, is renumbered 71.07 (9m) (a) 1m. and amended to read:

1 71.07 (9m) (a) 1m. ~~Any~~ For taxable years beginning before January 1, 2014,
2 any person may credit against taxes otherwise due under this chapter, up to the
3 amount of those taxes, an amount equal to ~~one of the following percentages~~ 5 percent,
4 for taxable years beginning before January 1, 2013, or 10 percent, for taxable years
5 beginning after December 31, 2012, and before January 1, 2014, of the costs of
6 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
7 Revenue Code, for certified historic structures on property located in this state if the
8 physical work of construction or destruction in preparation for construction begins
9 after December 31, 1988, and the rehabilitated property is placed in service after
10 June 30, 1989; and before January 1, 2014.

11 **SECTION 2.** 71.07 (9m) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
12 Act 20, are repealed.

13 **SECTION 3.** 71.07 (9m) (a) 2m. of the statutes is created to read:

14 71.07 (9m) (a) 2m. For taxable years beginning after December 31, 2013, any
15 person may claim as a credit against taxes otherwise due under s. 71.02 or 71.08, up
16 to the amount of those taxes, an amount equal to 20 percent of the costs of qualified
17 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
18 Code, for certified historic structures on property located in this state, if the cost of
19 the person's qualified rehabilitation expenditures is at least \$50,000 and the
20 rehabilitated property is placed in service after December 31, 2013.

21 **SECTION 4.** 71.07 (9m) (a) 3. of the statutes is created to read:

22 71.07 (9m) (a) 3. For taxable years beginning after December 31, 2013, any
23 person may claim as a credit against taxes otherwise due under s. 71.02 or 71.08, up
24 to the amount of those taxes, an amount equal to 20 percent of the costs of qualified
25 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue

1 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
2 Internal Revenue Code, on property located in this state, if the cost of the person's
3 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
4 property is placed in service after December 31, 2013, and regardless of whether the
5 rehabilitated property is used for multiple or revenue-producing purposes. No
6 credit may be claimed under this subdivision for property listed as a contributing
7 building in the state register of historic places or in the national register of historic
8 places and no credit may be claimed under this subdivision for nonhistoric,
9 nonresidential property converted into housing if the property has been previously
10 used for housing.

11 **SECTION 5.** 71.07 (9m) (c) of the statutes is renumbered 71.07 (9m) (c) (intro.)
12 and amended to read:

13 71.07 **(9m)** (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
14 (a) 2m. unless the claimant includes with the claimant's return ~~evidence~~ a copy of the
15 claimant's certification under s. 238.17. For certification purposes under s. 238.17,
16 the claimant shall provide to the Wisconsin Economic Development Corporation all
17 of the following:

18 1. Evidence that the rehabilitation was recommended by the state historic
19 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
20 before the physical work of construction, or destruction in preparation for
21 construction, began and that the rehabilitation was approved by the secretary of the
22 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

23 **SECTION 6.** 71.07 (9m) (c) 2. of the statutes is created to read:

24 71.07 **(9m)** (c) 2. Evidence that the taxpayer obtained written certification from
25 the state historic preservation officer that:

1 a. The property is listed on the national register of historic places in Wisconsin
2 or the state register of historic places, or is determined by the state historical society
3 to be eligible for listing on the national register of historic places in Wisconsin or the
4 state register of historic places, or is located in a historic district that is listed in the
5 national register of historic places in Wisconsin or the state register of historic places
6 and is certified by the state historic preservation officer as being of historic
7 significance to the district, or is an outbuilding of an otherwise eligible property
8 certified by the state historic preservation officer as contributing to the historic
9 significance of the property.

10 b. The proposed preservation or rehabilitation plan complies with standards
11 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
12 substantially complies with the proposed plan.

13 c. The costs are not incurred to acquire any building or interest in a building
14 or to enlarge an existing building.

15 d. The costs were not incurred before the state historical society approved the
16 proposed preservation or rehabilitation plan.

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

18 71.07 (9m) (g) 2. Notwithstanding s. 71.77, the department may adjust or
19 disallow the credit claimed under this subsection within 4 years after the date that
20 the state historical society notifies the department that the expenditures for which
21 the credit was claimed do not comply with the standards for certification
22 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
23 in part, a credit transferred under par. (h), only the person who originally transferred
24 the credit to another person is liable to repay the adjusted or disallowed amount.

25 **SECTION 8.** 71.07 (9m) (h) of the statutes is created to read:

1 71.07 **(9m)** (h) Any person, including a nonprofit entity described in section 501
2 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
3 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
4 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
5 of the transfer, and submits with the notification a copy of the transfer documents,
6 and the department certifies ownership of the credit with each transfer.

7 **SECTION 9.** 71.08 (1) (intro.) of the statutes is amended to read:

8 71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married
9 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
10 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
11 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r),
12 and (9e), and (9m), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3),
13 (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3),
14 (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other
15 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
16 that natural person, married couple filing jointly, trust or estate, instead of the tax
17 under s. 71.02, an alternative minimum tax computed as follows:

18 **SECTION 10.** 71.10 (4) (dm) of the statutes is renumbered 71.10 (4) (fm).

19 **SECTION 11.** 71.28 (6) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
20 Act 20, is renumbered 71.28 (6) (a) 1m. and amended to read:

21 71.28 **(6)** (a) 1m. Any For taxable years beginning before January 1, 2014, any
22 person may credit against taxes otherwise due under this chapter, up to the amount
23 of those taxes, an amount equal to one of the following percentages 5 percent, for
24 taxable years beginning before January 1, 2013, or 10 percent, for taxable years
25 beginning after December 31, 2012, and before January 1, 2014, of the costs of

1 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
2 Revenue Code, for certified historic structures on property located in this state if the
3 physical work of construction or destruction in preparation for construction begins
4 after December 31, 1988, and the rehabilitated property is placed in service after
5 June 30, 1989~~;~~, and before January 1, 2014.

6 **SECTION 12.** 71.28 (6) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
7 Act 20, are repealed.

8 **SECTION 13.** 71.28 (6) (a) 2m. of the statutes is created to read:

9 71.28 (6) (a) 2m. For taxable years beginning after December 31, 2013, any
10 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
11 amount of those taxes, an amount equal to 20 percent of the costs of qualified
12 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
13 Code, for certified historic structures on property located in this state, if the cost of
14 the person's qualified rehabilitation expenditures is at least \$50,000 and the
15 rehabilitated property is placed in service after December 31, 2013.

16 **SECTION 14.** 71.28 (6) (a) 3. of the statutes is created to read:

17 71.28 (6) (a) 3. For taxable years beginning after December 31, 2013, any
18 person may claim as a credit against taxes otherwise due under s. 71.23, up to the
19 amount of those taxes, an amount equal to 20 percent of the costs of qualified
20 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
21 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
22 Internal Revenue Code, on property located in this state, if the cost of the person's
23 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
24 property is placed in service after December 31, 2013, and regardless of whether the
25 rehabilitated property is used for multiple or revenue-producing purposes. No

1 credit may be claimed under this subdivision for property listed as a contributing
2 building in the state register of historic places or in the national register of historic
3 places and no credit may be claimed under this subdivision for nonhistoric,
4 nonresidential property converted into housing if the property has been previously
5 used for housing.

6 **SECTION 15.** 71.28 (6) (c) of the statutes is renumbered 71.28 (6) (c) (intro.) and
7 amended to read:

8 71.28 (6) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
9 (a) 2m. unless the claimant includes with the claimant's return evidence a copy of the
10 claimant's certification under s. 238.17. For certification purposes under s. 238.17,
11 the claimant shall provide to the Wisconsin Economic Development Corporation all
12 of the following:

13 1. Evidence that the rehabilitation was recommended by the state historic
14 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
15 before the physical work of construction, or destruction in preparation for
16 construction, began and that the rehabilitation was approved by the ~~secretary of the~~
17 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

18 **SECTION 16.** 71.28 (6) (c) 2. of the statutes is created to read:

19 71.28 (6) (c) 2. Evidence that the taxpayer obtained written certification from
20 the state historic preservation officer that:

21 a. The property is listed on the national register of historic places in Wisconsin
22 or the state register of historic places, or is determined by the state historical society
23 to be eligible for listing on the national register of historic places in Wisconsin or the
24 state register of historic places, or is located in a historic district that is listed in the
25 national register of historic places in Wisconsin or the state register of historic places

1 and is certified by the state historic preservation officer as being of historic
2 significance to the district, or is an outbuilding of an otherwise eligible property
3 certified by the state historic preservation officer as contributing to the historic
4 significance of the property.

5 b. The proposed preservation or rehabilitation plan complies with standards
6 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
7 substantially complies with the proposed plan.

8 c. The costs are not incurred to acquire any building or interest in a building
9 or to enlarge an existing building.

10 d. The costs were not incurred before the state historical society approved the
11 proposed preservation or rehabilitation plan.

12 **SECTION 17.** 71.28 (6) (g) 2. of the statutes is amended to read:

13 71.28 (6) (g) 2. Notwithstanding s. 71.77, the department may adjust or
14 disallow the credit claimed under this subsection within 4 years after the date that
15 the state historical society notifies the department that the expenditures for which
16 the credit was claimed do not comply with the standards for certification
17 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or
18 in part, a credit transferred under par. (h), only the person who originally transferred
19 the credit to another person is liable to repay the adjusted or disallowed amount.

20 **SECTION 18.** 71.28 (6) (h) of the statutes is created to read:

21 71.28 (6) (h) Any person, including a nonprofit entity described in section 501
22 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
23 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
24 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department

1 of the transfer, and submits with the notification a copy of the transfer documents,
2 and the department certifies ownership of the credit with each transfer.

3 **SECTION 19.** 71.47 (6) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
4 Act 20, is renumbered 71.47 (6) (a) 1m. and amended to read:

5 71.47 (6) (a) 1m. Any For taxable years beginning before January 1, 2014, any
6 person may credit against taxes otherwise due under this chapter, up to the amount
7 of those taxes, an amount equal to one of the following percentages 5 percent, for
8 taxable years beginning before January 1, 2013, or 10 percent, for taxable years
9 beginning after December 31, 2012, and before January 1, 2014, of the costs of
10 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal
11 Revenue Code, for certified historic structures on property located in this state if the
12 physical work of construction or destruction in preparation for construction begins
13 after December 31, 1988, and the rehabilitated property is placed in service after
14 June 30, 1989; and before January 1, 2014.

15 **SECTION 20.** 71.47 (6) (a) 1. and 2. of the statutes, as created by 2013 Wisconsin
16 Act 20, are repealed.

17 **SECTION 21.** 71.47 (6) (a) 2m. of the statutes is created to read:

18 71.47 (6) (a) 2m. For taxable years beginning after December 31, 2013, any
19 person may claim as a credit against taxes otherwise due under s. 71.43, up to the
20 amount of those taxes, an amount equal to 20 percent of the costs of qualified
21 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
22 Code, for certified historic structures on property located in this state, if the cost of
23 the person's qualified rehabilitation expenditures is at least \$50,000 and the
24 rehabilitated property is placed in service after December 31, 2013.

25 **SECTION 22.** 71.47 (6) (a) 3. of the statutes is created to read:

1 71.47 (6) (a) 3. For taxable years beginning after December 31, 2013, any
2 person may claim as a credit against taxes otherwise due under s. 71.43, up to the
3 amount of those taxes, an amount equal to 20 percent of the costs of qualified
4 rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue
5 Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the
6 Internal Revenue Code, on property located in this state, if the cost of the person's
7 qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated
8 property is placed in service after December 31, 2013, and regardless of whether the
9 rehabilitated property is used for multiple or revenue-providing purposes. No credit
10 may be claimed under this subdivision for property listed as a contributing building
11 in the state register of historic places or in the national register of historic places and
12 no credit may be claimed under this subdivision for nonhistoric, nonresidential
13 property converted into housing if the property has been previously used for housing.

14 **SECTION 23.** 71.47 (6) (c) of the statutes is renumbered 71.47 (6) (c) (intro.) and
15 amended to read:

16 71.47 (6) (c) (intro.) No person may claim the credit under ~~this subsection~~ par.
17 (a) 2m. unless the claimant includes with the claimant's return ~~evidence~~ a copy of the
18 claimant's certification under s. 238.17. For certification purposes under s. 238.17,
19 the claimant shall provide to the Wisconsin Economic Development Corporation all
20 of the following:

21 1. Evidence that the rehabilitation was recommended by the state historic
22 preservation officer for approval by the secretary of the interior under 36 CFR 67.6
23 before the physical work of construction, or destruction in preparation for
24 construction, began and that the rehabilitation was approved by the secretary of the
25 ~~interior under 36 CFR 67.6~~ state historic preservation officer.

1 **SECTION 24.** 71.47 (6) (c) 2. of the statutes is created to read:

2 71.47 **(6)** (c) 2. Evidence that the taxpayer obtained written certification from
3 the state historic preservation officer that:

4 a. The property is listed on the national register of historic places in Wisconsin
5 or the state register of historic places, or is determined by the state historical society
6 to be eligible for listing on the national register of historic places in Wisconsin or the
7 state register of historic places, or is located in a historic district that is listed in the
8 national register of historic places in Wisconsin or the state register of historic places
9 and is certified by the state historic preservation officer as being of historic
10 significance to the district, or is an outbuilding of an otherwise eligible property
11 certified by the state historic preservation officer as contributing to the historic
12 significance of the property.

13 b. The proposed preservation or rehabilitation plan complies with standards
14 promulgated under s. 44.02 (24) and the completed preservation or rehabilitation
15 substantially complies with the proposed plan.

16 c. The costs are not incurred to acquire any building or interest in a building
17 or to enlarge an existing building.

18 d. The costs were not incurred before the state historical society approved the
19 proposed preservation or rehabilitation plan.

20 **SECTION 25.** 71.47 (6) (g) 2. of the statutes is amended to read:

21 71.47 **(6)** (g) 2. Notwithstanding s. 71.77, the department may adjust or
22 disallow the credit claimed under this subsection within 4 years after the date that
23 the state historical society notifies the department that the expenditures for which
24 the credit was claimed do not comply with the standards for certification
25 promulgated under s. 44.02 (24). If the department adjusts or disallows, in whole or

1 in part, a credit transferred under par. (h), only the person who originally transferred
2 the credit to another person is liable to repay the adjusted or disallowed amount.

3 **SECTION 26.** 71.47 (6) (h) of the statutes is created to read:

4 71.47 (6) (h) Any person, including a nonprofit entity described in section 501
5 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer the credit under
6 par. (a) 2m. or 3., in whole or in part, to another person who is subject to the taxes
7 imposed under s. 71.02, 71.08, 71.23, or 71.43, if the person notifies the department
8 of the transfer, and submits with the notification a copy of the transfer documents,
9 and the department certifies ownership of the credit with each transfer.

10 **SECTION 26m.** 238.17 of the statutes is created to read:

11 **238.17 Historic rehabilitation tax credit.** For taxable years beginning
12 after December 31, 2013, the corporation may certify a person to claim a tax credit
13 under s. 71.07 (9m), 71.28 (6), or 71.47 (6), if the corporation determines that the
14 person is conducting an eligible activity under s. 71.07 (9m), 71.28 (6), or 71.47 (6).
15 No person may claim a tax credit under s. 71.07 (9m), 71.28 (6), or 71.47 (6) without
16 first being certified under this section. The corporation shall notify the department
17 of revenue no later than January 15 of each year of the amount of the credits certified
18 under this section and the name, address, and tax identification number of each
19 person certified to claim the credit. The corporation shall notify the department of
20 revenue of any revoked certification no later than 2 months after the revocation date.

21 **SECTION 27. Nonstatutory provisions.**

22 (1) **JOINT FINANCE REVIEW.** No later than March 1, 2015, the Wisconsin Economic
23 Development Corporation, in conjunction with the department of revenue and the
24 state historical society, shall submit to the joint committee on finance a report
25 indicating the total number and amount of the tax credits certified under sections

1 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and 3. of the
2 statutes as of the date of the report. No later than June 30, 2017, the department
3 of revenue, in conjunction with the state historical society, shall submit to the joint
4 committee on finance a report describing the economic impact of the tax credits
5 under sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a)
6 2m. and 3. of the statutes, as affected by this act, and shall make a recommendation
7 to the committee as to whether the tax credits should continue. If the department
8 of revenue, in conjunction with the state historical society, determines that the cost
9 of the tax credits to the state is greater than the investments made in order to claim
10 the credits, the department shall recommend in the report that the credits be
11 discontinued for taxable years beginning after December 31, 2017. The report shall
12 also specify the number and type of claimants who have claimed the credits under
13 sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and
14 3. of the statutes, as affected by this act, and the commercial purposes for which the
15 rehabilitated properties are used. Within 14 working days after the submittal date
16 of the report, the cochairpersons of the committee shall notify the department of
17 revenue and the state historical society that the committee has scheduled a meeting
18 for the purpose of reviewing the recommendation. The recommendation may be
19 implemented only upon approval of the committee.

20 **SECTION 27m. Initial applicability.**

21 (1m) The treatment of sections 71.08 (1) (intro.) and 71.10 (4) (dm) of the
22 statutes first applies to taxable years beginning on January 1, 2014.

23 (END)