

State of Wisconsin



October 2013 Special Session
Assembly Bill 4

Date of enactment: **December 11, 2013**
Date of publication*: **December 12, 2013**

2013 WISCONSIN ACT 62

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

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

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

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

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 of the statutes, as created by 2013 Wisconsin Act 20, are repealed.

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

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

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

71.07 (9m) (a) 3. For taxable years beginning after December 31, 2013, any person may claim as a credit against taxes otherwise due under s. 71.02 or 71.08, up to the amount of those taxes, an amount equal to 20 percent of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the Internal Revenue Code, on property located in this state, if the cost of the person's quali-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

fied rehabilitation expenditures is at least \$50,000 and the rehabilitated property is placed in service after December 31, 2013, and regardless of whether the rehabilitated property is used for multiple or revenue-producing purposes. No credit may be claimed under this subdivision for property listed as a contributing building in the state register of historic places or in the national register of historic places and no credit may be claimed under this subdivision for nonhistoric, nonresidential property converted into housing if the property has been previously used for housing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989; and before January 1, 2014.

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

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

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

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

71.28 (6) (a) 3. For taxable years beginning after December 31, 2013, any person may claim as a credit against taxes otherwise due under s. 71.23, up to the amount of those taxes, an amount equal to 20 percent of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for qualified rehabilitated buildings, as defined in section 47 (c) (1) of the Internal Revenue Code, on property located in this state, if the cost of the person's qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated property is placed in service after December 31, 2013, and regardless of whether the rehabilitated property is used for multiple or revenue-producing purposes. No credit may be claimed under this subdivision for property listed as a contributing building in the state register of historic places or in the national register of historic places and no credit may be claimed under this subdivision for nonhistoric, nonresidential property converted into housing if the property has been previously used for housing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

71.47 (6) (a) 1m. Any For taxable years beginning before January 1, 2014, any person may credit against

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

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

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

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

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

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

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

71.47 (6) (c) (intro.) No person may claim the credit under ~~this subsection par. (a) 2m.~~ unless the claimant includes with the claimant's return evidence a copy of the claimant's certification under s. 238.17. For certification purposes under s. 238.17, the claimant shall provide to

the Wisconsin Economic Development Corporation all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 27. Nonstatutory provisions.

(1) **JOINT FINANCE REVIEW.** No later than March 1, 2015, the Wisconsin Economic Development Corporation, in conjunction with the department of revenue and the state historical society, shall submit to the joint committee on finance a report indicating the total number and amount of the tax credits certified under sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and 3. of the statutes as of the date of the report. No later than June 30, 2017, the department of

revenue, in conjunction with the state historical society, shall submit to the joint committee on finance a report describing the economic impact of the tax credits under sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and 3. of the statutes, as affected by this act, and shall make a recommendation to the committee as to whether the tax credits should continue. If the department of revenue, in conjunction with the state historical society, determines that the cost of the tax credits to the state is greater than the investments made in order to claim the credits, the department shall recommend in the report that the credits be discontinued for taxable years beginning after December 31, 2017. The report shall also specify the number and type of claimants who have claimed the credits under sections 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and 3. of the statutes, as affected by this act, and the commercial purposes for which the rehabilitated properties are used. Within 14 working days after the submittal date of the report, the cochairpersons of the committee shall notify the department of revenue and the state historical society that the committee has scheduled a meeting for the purpose of reviewing the recommendation. The recommendation may be implemented only upon approval of the committee.

SECTION 27m. Initial applicability.

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