



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2138/1
JK&MPG:kjf.md

2011 ASSEMBLY BILL 186

June 16, 2011 - Introduced by Representatives SHILLING, CLARK, BARCA, BERCEAU, DOYLE, HEBL, JORGENSEN, MOLEPSKE JR, RINGHAND, SEIDEL, STASKUNAS and VRUWINK, cosponsored by Senators LASSA, HOLPERIN, HANSEN, ERPENBACH, MILLER and TAYLOR. Referred to Committee on Jobs, Economy and Small Business.

1 **AN ACT** *to repeal* 71.07 (3rn) (c) 3. c., 71.28 (3rn) (c) 3. c. and 71.47 (3rn) (c) 3.
2 *c.; to amend* 71.05 (6) (a) 15., 71.07 (3p) (c) 2m. b., 71.07 (3p) (c) 2m. bm., 71.07
3 (3r) (c) 3. b., 71.07 (3rn) (c) 3. b., 71.21 (4), 71.26 (2) (a) 4., 71.28 (3p) (c) 2m. b.,
4 71.28 (3p) (c) 2m. bm., 71.28 (3r) (c) 3. b., 71.28 (3rn) (c) 3. b., 71.34 (1k) (g), 71.45
5 (2) (a) 10., 71.47 (3p) (c) 2m. b., 71.47 (3p) (c) 2m. bm., 71.47 (3r) (c) 3. b., 71.47
6 (3rn) (c) 3. b., 76.67 (2), 77.92 (4), 560.2056 (2), 560.207 (2) and 560.208 (2); and
7 **to create** 71.07 (3r) (c) 3. bm., 71.07 (5p), 71.10 (4) (cr), 71.28 (3r) (c) 3. bm.,
8 71.28 (5p), 71.30 (3) (cr), 71.47 (3r) (c) 3. bm., 71.47 (5p), 71.49 (1) (cr), 76.634
9 and 560.295 of the statutes; **relating to:** an income and franchise tax credit for
10 investments in a community development financial institution, increasing the
11 credit amounts for the dairy manufacturing facility, meat processing facility,

ASSEMBLY BILL 186

1 and food processing facility investment credits, and granting rule-making
2 authority.

Analysis by the Legislative Reference Bureau

Under this bill, the Department of Commerce (Commerce) may certify a person who makes a qualified investment in a registered community development financial institution (CDFI) to receive a credit against state income and franchise taxes and against license fees paid by insurers. The bill defines a CDFI as an entity that is organized under the laws of this state and has been certified by the Community Development Financial Institutions Fund established under federal law (fund) as meeting certain eligibility requirements. The bill permits Commerce to register a CDFI that applies to Commerce and complies with annual reporting requirements. The bill defines a “qualified investment” as a loan or deposit that pays no interest of at least \$10,000 that is made for a minimum of 60 months and over which the CDFI retains complete control for the duration of the investment period.

Commerce may revoke the registration of a CDFI that fails to comply with annual reporting requirements or that no longer meets the eligibility requirement for certification by the fund. Commerce may certify up to \$500,000 in tax credits in any calendar year.

A person certified to receive tax credits may claim 10 percent of the person’s qualified investment, if the investment is at least \$10,000, but not more than \$150,000, or 12 percent of the person’s qualified investment, if the investment is more than \$150,000, but not more than \$500,000. If the person withdraws the qualified investment from the CDFI before the end of the investment period and does not reinvest the qualified investment in another CDFI, the person must repay a portion of the credit amounts that the person received by adding the portion to the person’s tax or fee liability in a subsequent year. However, the portion that the person must repay depends on when the person withdraws the investment during the investment period. The portion that the person must repay decreases the longer the person holds the investment during the investment period.

Under current law, the maximum amount of dairy manufacturing facility investment credits that may be claimed by all taxpayers, other than members of dairy cooperatives, in a fiscal year is \$700,000 and the maximum amount of dairy manufacturing facility investment credits that may be claimed by members of dairy cooperatives in a fiscal year is \$700,000.

Under the bill, the maximum amount of dairy manufacturing facility investment credits that may be claimed by all taxpayers, other than members of dairy cooperatives, in a fiscal year is \$1,000,000 and the maximum amount of dairy manufacturing facility investment credits that may be claimed by members of dairy cooperatives in a fiscal year is \$1,000,000.

Under current law, the maximum amount of meat processing facility investment credits that may be claimed by all taxpayers in a fiscal year is \$700,000.

ASSEMBLY BILL 186

The bill increases the maximum amount of meat processing facility investment credits that may be claimed by all taxpayers in a fiscal year to \$1,200,000.

Under current law, for fiscal year beginning on July 1, 2010, the maximum amount of food processing plant and food warehouse investment credits that may be claimed by all taxpayers is \$1,200,000. Beginning with fiscal year 2011-12, and in each subsequent fiscal year, the maximum amount of food processing plant and food warehouse investment credits that may be claimed by all taxpayers is \$700,000. Under the bill, the maximum amount of food processing plant and food warehouse investment credits that may be claimed by all taxpayers in a fiscal year is \$1,200,000.

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:

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
4 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and
5 not passed through by a partnership, limited liability company, or tax-option
6 corporation that has added that amount to the partnership's, company's, or
7 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

8 **SECTION 2.** 71.07 (3p) (c) 2m. b. of the statutes is amended to read:

9 71.07 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed
10 by all claimants, other than members of dairy cooperatives, under this subsection
11 and ss. 71.28 (3p) and 71.47 (3p), as allocated under s. 560.207, is \$700,000 in fiscal
12 year 2008-09, \$700,000 in fiscal year 2009-10, \$700,000 in fiscal year 2010-11, and
13 \$1,000,000 in fiscal year 2011-12 and in each fiscal year thereafter, is \$700,000, as
14 allocated under s. 560.207.

15 **SECTION 3.** 71.07 (3p) (c) 2m. bm. of the statutes is amended to read:

ASSEMBLY BILL 186**SECTION 3**

1 71.07 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
2 by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47
3 (3p), as allocated under s. 560.207, is \$600,000 in fiscal year 2009-10 ~~is \$600,000, as~~
4 ~~allocated under s. 560.207, and the maximum amount of the credits that may be~~
5 ~~claimed by members of dairy cooperatives under this subsection and ss. 71.28 (3p)~~
6 ~~and 71.47 (3p), \$700,000~~ in fiscal year 2010-11, and \$1,000,000 in fiscal year
7 2011-12 and in each fiscal year thereafter, ~~is \$700,000, as allocated under s. 560.207.~~

8 **SECTION 4.** 71.07 (3r) (c) 3. b. of the statutes is amended to read:

9 71.07 (3r) (c) 3. b. The maximum amount of the credits that may be allocated
10 under this subsection and ss. 71.28 (3r) and 71.47 (3r) in fiscal year 2010-11, ~~and in~~
11 ~~each fiscal year thereafter,~~ is \$700,000, as allocated under s. 560.208.

12 **SECTION 5.** 71.07 (3r) (c) 3. bm. of the statutes is created to read:

13 71.07 (3r) (c) 3. bm. The maximum amount of the credits that may be allocated
14 under this subsection and ss. 71.28 (3r) and 71.47 (3r) in fiscal year 2011-12, and in
15 each fiscal year thereafter, is \$1,200,000, as allocated under s. 560.208.

16 **SECTION 6.** 71.07 (3rn) (c) 3. b. of the statutes is amended to read:

17 71.07 (3rn) (c) 3. b. The maximum amount of the credits that may be allocated
18 under this subsection and ss. 71.28 (3rn) and 71.47 (3rn) in fiscal year 2010-11, and
19 in each fiscal year thereafter, is \$1,200,000, as allocated under s. 560.2056.

20 **SECTION 7.** 71.07 (3rn) (c) 3. c. of the statutes is repealed.

21 **SECTION 8.** 71.07 (5p) of the statutes is created to read:

22 71.07 (5p) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION CREDIT. (a)
23 *Definition.* In this subsection, “claimant” means a person who files a claim under this
24 subsection.

ASSEMBLY BILL 186

1 (b) *Filing claims.* Subject to the limitations provided under this subsection and
2 the requirements under s. 560.295, for taxable years beginning after December 31,
3 2010, and before January 1, 2013, a claimant may claim as a credit against the tax
4 imposed under s. 71.02, up to the amount of the tax, for the taxable year in which the
5 investment is made, an amount equal to 10 percent of the claimant's qualified
6 investment in a community development financial institution, if the investment is
7 at least \$10,000, but not more than \$150,000, or 12 percent of the claimant's qualified
8 investment in a community development financial institution, if the investment is
9 more than \$150,000, but not more than \$500,000.

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

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

20 **SECTION 9.** 71.10 (4) (cr) of the statutes is created to read:

21 71.10 (4) (cr) Community development financial institution credit under s.
22 71.07 (5p).

23 **SECTION 10.** 71.21 (4) of the statutes is amended to read:

24 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
25 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),

ASSEMBLY BILL 186**SECTION 10**

1 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and passed
2 through to partners shall be added to the partnership's income.

3 **SECTION 11.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
4 3, is amended to read:

5 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
6 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
7 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), (8r), and
8 (9s) and not passed through by a partnership, limited liability company, or
9 tax-option corporation that has added that amount to the partnership's, limited
10 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
11 (g).

12 **SECTION 12.** 71.28 (3p) (c) 2m. b. of the statutes is amended to read:

13 71.28 (3p) (c) 2m. b. The maximum amount of the credits that may be claimed
14 by all claimants, other than members of dairy cooperatives, under this subsection
15 and ss. 71.07 (3p) and 71.47 (3p), as allocated under s. 560.207, is \$700,000 in fiscal
16 year 2008-09, \$700,000 in fiscal year 2009-10, \$700,000 in fiscal year 2010-11, and
17 \$1,000,000 in fiscal year 2011-12 and in each fiscal year thereafter, ~~is \$700,000, as~~
18 ~~allocated under s. 560.207.~~

19 **SECTION 13.** 71.28 (3p) (c) 2m. bm. of the statutes is amended to read:

20 71.28 (3p) (c) 2m. bm. The maximum amount of the credits that may be claimed
21 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47
22 (3p), as allocated under s. 560.207, is \$600,000 in fiscal year 2009-10 ~~is \$600,000, as~~
23 ~~allocated under s. 560.207, and the maximum amount of the credits that may be~~
24 ~~claimed by members of dairy cooperatives under this subsection and ss. 71.07 (3p)~~

ASSEMBLY BILL 186

1 ~~and 71.47 (3p), \$700,000 in fiscal year 2010-11, and \$1,000,000 in fiscal year~~
2 ~~2011-12 and in each fiscal year thereafter, is \$700,000, as allocated under s. 560.207.~~

3 **SECTION 14.** 71.28 (3r) (c) 3. b. of the statutes is amended to read:

4 71.28 (3r) (c) 3. b. The maximum amount of the credits that may be allocated
5 under this subsection and ss. 71.07 (3r) and 71.47 (3r) in fiscal year 2010-11, ~~and in~~
6 ~~each fiscal year thereafter,~~ is \$700,000, as allocated under s. 560.208.

7 **SECTION 15.** 71.28 (3r) (c) 3. bm. of the statutes is created to read:

8 71.28 (3r) (c) 3. bm. The maximum amount of the credits that may be allocated
9 under this subsection and ss. 71.07 (3r) and 71.47 (3r) in fiscal year 2011-12, and in
10 each fiscal year thereafter, is \$1,200,000, as allocated under s. 560.208.

11 **SECTION 16.** 71.28 (3rn) (c) 3. b. of the statutes is amended to read:

12 71.28 (3rn) (c) 3. b. The maximum amount of the credits that may be allocated
13 under this subsection and ss. 71.07 (3rn) and 71.47 (3rn) in fiscal year 2010-11, and
14 in each fiscal year thereafter, is \$1,200,000, as allocated under s. 560.2056.

15 **SECTION 17.** 71.28 (3rn) (c) 3. c. of the statutes is repealed.

16 **SECTION 18.** 71.28 (5p) of the statutes is created to read:

17 71.28 (5p) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION CREDIT. (a)
18 *Definition.* In this subsection, "claimant" means a person who files a claim under this
19 subsection.

20 (b) *Filing claims.* Subject to the limitations provided under this subsection and
21 the requirements under s. 560.295, for taxable years beginning after December 31,
22 2010, and before January 1, 2013, a claimant may claim as a credit against the tax
23 imposed under s. 71.23, up to the amount of the tax, for the taxable year in which the
24 investment is made, an amount equal to 10 percent of the claimant's qualified
25 investment in a community development financial institution, if the investment is

ASSEMBLY BILL 186**SECTION 18**

1 at least \$10,000, but not more than \$150,000, or 12 percent of the claimant's qualified
2 investment in a community development financial institution, if the investment is
3 more than \$150,000, but not more than \$500,000.

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

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

14 **SECTION 19.** 71.30 (3) (cr) of the statutes is created to read:

15 71.30 (3) (cr) Community development financial institution credit under s.
16 71.28 (5p).

17 **SECTION 20.** 71.34 (1k) (g) of the statutes is amended to read:

18 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
19 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
20 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
21 (5k), (5p), (5r), (5rm), and (8r) and passed through to shareholders.

22 **SECTION 21.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
23 3, is amended to read:

24 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
25 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),

ASSEMBLY BILL 186

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

6 **SECTION 22.** 71.47 (3p) (c) 2m. b. of the statutes is amended to read:

7 71.47 **(3p)** (c) 2m. b. The maximum amount of the credits that may be claimed
8 by all claimants, other than members of dairy cooperatives, under this subsection
9 and ss. 71.07 (3p) and 71.28 (3p), as allocated under s. 560.207, is \$700,000 in fiscal
10 year 2008-09, \$700,000 in fiscal year 2009-10, \$700,000 in fiscal year 2010-11, and
11 \$1,000,000 in fiscal year 2011-12 and in each fiscal year thereafter, is \$700,000, as
12 allocated under s. 560.207.

13 **SECTION 23.** 71.47 (3p) (c) 2m. bm. of the statutes is amended to read:

14 71.47 **(3p)** (c) 2m. bm. The maximum amount of the credits that may be claimed
15 by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28
16 (3p), as allocated under s. 560.207, is \$600,000 in fiscal year 2009-10 is \$600,000, as
17 allocated under s. 560.207, and the maximum amount of the credits that may be
18 claimed by members of dairy cooperatives under this subsection and ss. 71.07 (3p)
19 and 71.28 (3p), \$700,000 in fiscal year 2010-11, and \$1,000,000 in fiscal year
20 2011-12 and in each fiscal year thereafter, is \$700,000, as allocated under s. 560.207.

21 **SECTION 24.** 71.47 (3r) (c) 3. b. of the statutes is amended to read:

22 71.47 **(3r)** (c) 3. b. The maximum amount of the credits that may be allocated
23 under this subsection and ss. 71.07 (3r) and 71.28 (3r) in fiscal year 2010-11, ~~and in~~
24 ~~each fiscal year thereafter,~~ is \$700,000, as allocated under s. 560.208.

25 **SECTION 25.** 71.47 (3r) (c) 3. bm. of the statutes is created to read:

ASSEMBLY BILL 186

1 71.47 (3r) (c) 3. bm. The maximum amount of the credits that may be allocated
2 under this subsection and ss. 71.07 (3r) and 71.28 (3r) in fiscal year 2011-12, and in
3 each fiscal year thereafter, is \$1,200,000 as allocated under s. 560.208.

4 **SECTION 26.** 71.47 (3rn) (c) 3. b. of the statutes is amended to read:

5 71.47 (3rn) (c) 3. b. The maximum amount of the credits that may be allocated
6 under this subsection and ss. 71.07 (3rn) and 71.28 (3rn) in fiscal year 2010-11, and
7 in each fiscal year thereafter, is \$1,200,000, as allocated under s. 560.2056.

8 **SECTION 27.** 71.47 (3rn) (c) 3. c. of the statutes is repealed.

9 **SECTION 28.** 71.47 (5p) of the statutes is created to read:

10 71.47 (5p) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION CREDIT. (a)

11 *Definition.* In this subsection, “claimant” means a person who files a claim under this
12 subsection.

13 (b) *Filing claims.* Subject to the limitations provided under this subsection and
14 the requirements under s. 560.295, for taxable years beginning after December 31,
15 2010, and before January 1, 2013, a claimant may claim as a credit against the tax
16 imposed under s. 71.43, up to the amount of the tax, for the taxable year in which the
17 investment is made, an amount equal to 10 percent of the claimant’s qualified
18 investment in a community development financial institution, if the investment is
19 at least \$10,000, but not more than \$150,000, or 12 percent of the claimant’s qualified
20 investment in a community development financial institution, if the investment is
21 more than \$150,000, but not more than \$500,000.

22 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
23 corporations may not claim the credit under this subsection, but the eligibility for,
24 and the amount of, the credit are based on their payment of amounts under par. (b).
25 A partnership, limited liability company, or tax-option corporation shall compute

ASSEMBLY BILL 186

1 the amount of credit that each of its partners, members, or shareholders may claim
2 and shall provide that information to each of them. Partners, members of limited
3 liability companies, and shareholders of tax-option corporations may claim the
4 credit in proportion to their ownership interests.

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

7 **SECTION 29.** 71.49 (1) (cr) of the statutes is created to read:

8 71.49 (1) (cr) Community development financial institution credit under s.
9 71.47 (5p).

10 **SECTION 30.** 76.634 of the statutes is created to read:

11 **76.634 Community development financial institution credit. (1) FILING**
12 **CLAIMS.** Subject to the limitations provided under this subsection and the
13 requirements under s. 560.295, for taxable years beginning after December 31, 2010,
14 and before January 1, 2013, an insurer may claim as a credit against the fees due
15 under s. 76.60, 76.63, 76.65, 76.66, or 76.67 for the taxable year in which the
16 investment is made, an amount equal to 10 percent of the insurer's qualified
17 investment in a community development financial institution, if the investment is
18 at least \$10,000, but not more than \$150,000, or 12 percent of the insurer's qualified
19 investment in a community development financial institution, if the investment is
20 more than \$150,000, but not more than \$500,000.

21 **(2) CARRY-FORWARD.** If the credit under sub. (1) is not entirely offset against the
22 fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance
23 may be carried forward and credited against those fees for the following 15 years to
24 the extent that it is not offset by those fees otherwise due in all the years between

ASSEMBLY BILL 186**SECTION 30**

1 the year in which the expense was made and the year in which the carry-forward
2 credit is claimed.

3 **(3) LIMITATIONS.** No credit may be allowed under this section unless the insurer
4 includes with the insurer's annual return under s. 76.64 a copy of the insurer's
5 certification for tax benefits under s. 560.295 (5) (b).

6 **SECTION 31.** 76.67 (2) of the statutes is amended to read:

7 76.67 (2) If any domestic insurer is licensed to transact insurance business in
8 another state, this state may not require similar insurers domiciled in that other
9 state to pay taxes greater in the aggregate than the aggregate amount of taxes that
10 a domestic insurer is required to pay to that other state for the same year less the
11 credits under ss. 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655, except that the
12 amount imposed shall not be less than the total of the amounts due under ss. 76.65
13 (2) and 601.93 and, if the insurer is subject to s. 76.60, 0.375% of its gross premiums,
14 as calculated under s. 76.62, less offsets allowed under s. 646.51 (7) or under ss.
15 76.634, 76.635, 76.636, 76.637, 76.638, and 76.655 against that total, and except that
16 the amount imposed shall not be less than the amount due under s. 601.93.

17 **SECTION 32.** 77.92 (4) of the statutes is amended to read:

18 77.92 (4) "Net business income," with respect to a partnership, means taxable
19 income as calculated under section 703 of the Internal Revenue Code; plus the items
20 of income and gain under section 702 of the Internal Revenue Code, including taxable
21 state and municipal bond interest and excluding nontaxable interest income or
22 dividend income from federal government obligations; minus the items of loss and
23 deduction under section 702 of the Internal Revenue Code, except items that are not
24 deductible under s. 71.21; plus guaranteed payments to partners under section 707
25 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

ASSEMBLY BILL 186

1 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
2 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and
3 (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
4 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
5 excluding income, gain, loss, and deductions from farming. “Net business income,”
6 with respect to a natural person, estate, or trust, means profit from a trade or
7 business for federal income tax purposes and includes net income derived as an
8 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

9 **SECTION 33.** 560.2056 (2) of the statutes is amended to read:

10 560.2056 (2) If the department of commerce certifies a taxpayer under sub. (1),
11 the department of commerce shall determine the amount of credits to allocate to that
12 taxpayer. The total amount of food processing plant and food warehouse investment
13 credits allocated to taxpayers in any fiscal year 2009–10 may not exceed \$600,000
14 and the total amount of food processing plant and food warehouse investment credits
15 allocated to taxpayers in fiscal year 2010–11, and in each fiscal year thereafter, may
16 not exceed \$700,000 the amounts provided under ss. 71.07 (3rn) (c) 3., 71.28 (3rn) (c)
17 3., and 71.47 (3rn) (c) 3.

18 **SECTION 34.** 560.207 (2) of the statutes is amended to read:

19 560.207 (2) If the department of commerce certifies a taxpayer under sub. (1),
20 the department of commerce shall determine the amount of credits to allocate to that
21 taxpayer. The total amount of dairy manufacturing facility investment credits
22 allocated to taxpayers in any fiscal year 2007–08 may not exceed \$600,000 and the
23 total amount of dairy manufacturing facility investment credits allocated to
24 taxpayers who are not members of dairy cooperatives in fiscal year 2008–09, and in
25 each fiscal year thereafter, may not exceed \$700,000. ~~The total amount of dairy~~

ASSEMBLY BILL 186**SECTION 34**

1 ~~manufacturing facility investment credits allocated to taxpayers who are members~~
2 ~~of dairy cooperatives in fiscal year 2009-10 may not exceed \$600,000 and the total~~
3 ~~amount of dairy manufacturing facility investment credits allocated to taxpayers~~
4 ~~who are members of dairy cooperatives in fiscal year 2010-11, and in each fiscal year~~
5 ~~thereafter, may not exceed \$700,000 the amounts provided under ss. 71.07 (3p) (c)~~
6 ~~2m., 71.28 (3p) (c) 2m., and 71.47 (3p) (c) 2m.~~

7 **SECTION 35.** 560.208 (2) of the statutes is amended to read:

8 560.208 (2) If the department of commerce certifies a taxpayer under sub. (1),
9 the department of commerce shall determine the amount of credits to allocate to that
10 taxpayer. The total amount of meat processing facility investment credits allocated
11 to taxpayers in any fiscal year 2009-10 may not exceed \$300,000 and the total
12 amount of meat processing facility investment credits allocated to taxpayers in fiscal
13 year 2010-11, and in each fiscal year thereafter, may not exceed \$700,000 the
14 amounts provided under ss. 71.07 (3r) (c) 3., 71.28 (3r) (c) 3., and 71.47 (3r) (c) 3.

15 **SECTION 36.** 560.295 of the statutes is created to read:

16 **560.295 Certification of investments in community development**
17 **financial institutions.** (1) DEFINITIONS. In this section:

18 (a) "Community development financial institution" means an entity that
19 satisfies all of the following:

20 1. The entity is certified by the fund under 12 CFR 1805.201 as meeting the
21 eligibility requirements for a community development financial institution under 12
22 CFR 1805.200 and 1805.201 (b).

23 2. The entity is organized under the laws of this state.

24 3. The entity uses qualified investments for which a person may be certified for
25 tax credits under sub. (2) (a) for projects that are based in this state.

ASSEMBLY BILL 186

1 (b) "Fund" means the Community Development Financial Institutions Fund
2 established under 12 USC 4703 (a).

3 (c) 1. Subject to subd. 2., "qualified investment" means a deposit or loan that
4 pays no interest to the person who made the deposit or loan, if the deposit or loan has
5 a value of at least \$10,000 and is made for a period of at least 60 months.

6 2. A community development financial institution that receives an investment
7 described under subd. 1. shall have complete control over the entire investment
8 amount, including any interest earned on the investment, for the duration of the
9 investment period, but the investment may be subject to any additional terms and
10 conditions of the investment agreement between the community development
11 financial institution and the investor which are not inconsistent with the
12 requirements of this section.

13 **(2) CERTIFICATION; REGISTRATION AND REPORTING REQUIRED.** (a) Subject to the
14 limits under sub. (4), the department may certify a person under this section to claim
15 tax credits under s. 71.07 (5p), 71.28 (5p), 71.47 (5p), or 76.634 if the person applies
16 to the department on a form prepared by the department and submits evidence
17 satisfactory to the department that the person has made a qualified investment in
18 a community development financial institution that is registered under par. (b).

19 (b) 1. The department may register a community development financial
20 institution if the community development financial institution applies to the
21 department on a form prepared by the department. The department may revoke the
22 registration of a community development financial institution if the entity no longer
23 meets the eligibility requirements for certification as a community development
24 financial institution by the fund or fails to comply with the requirements of this
25 paragraph.

ASSEMBLY BILL 186**SECTION 36**

1 2. A community development financial institution registered under this section
2 shall annually, within 90 days after the last day of the preceding calendar year,
3 submit a report containing financial statements of the community development
4 financial institution, prepared according to generally accepted accounting principles
5 and including all of the following information for the preceding calendar year, to the
6 department:

7 a. The material events certification form required by the federal department
8 of the treasury.

9 b. Certification, in the form and manner prescribed by the department, that the
10 community development financial institution satisfies the criteria under sub. (1) (a)
11 1. to 3.

12 c. Any other information the department considers relevant.

13 **(3) ELIGIBILITY.** (a) Except as provided in par. (b), a person certified under sub.
14 (2) (a) is eligible to claim tax credits under s. 71.07 (5p), 71.28 (5p), 71.47 (5p), or
15 76.634.

16 (b) 1. A person certified under sub. (2) (a) who withdraws a qualified investment
17 from a community development financial institution prior to the date of withdrawal
18 specified in the written notice provided to the person under sub. (5) (b) and who does
19 not immediately reinvest the proceeds of the qualified investment as a qualified
20 investment in another community development financial institution shall add to the
21 person's liability for taxes imposed under s. 71.02, 71.23, or 71.43, or fees imposed
22 under s. 76.60, 76.63, 76.65, 76.66, or 76.67, one of the following percentages of the
23 amount of the credits received under s. 71.07 (5p), 71.28 (5p), 71.47 (5p), or 76.634:

24 a. If the withdrawal occurs during the first year after the date on which the
25 person made the qualified investment, 100 percent.

ASSEMBLY BILL 186

1 b. If the withdrawal occurs during the 2nd year after the date on which the
2 person made the qualified investment, 75 percent.

3 c. If the withdrawal occurs during the 3rd year after the date on which the
4 person made the qualified investment, 50 percent.

5 d. If the withdrawal occurs during the 4th year after the date on which the
6 person made the qualified investment, 25 percent.

7 e. If the withdrawal occurs during the 5th year after the date on which the
8 person made the qualified investment, 10 percent.

9 2. If the registration of a community development financial institution in which
10 a person certified under sub. (2) (a) has made a qualified investment is revoked by
11 the department, and not reinstated by the department within 120 days following the
12 revocation, or if the entity fails to meet the eligibility requirements for more than 120
13 consecutive days for certification as a community development financial institution
14 by the fund, the person certified under sub. (2) (a) may do any of the following:

15 a. Subject to subd. 1., withdraw the qualified investment.

16 b. Immediately reinvest the proceeds of the qualified investment as a qualified
17 investment in another community development financial institution for the duration
18 of the investment period.

19 **(4) LIMITS.** No more than \$500,000 in tax benefits may be claimed under this
20 section in any calendar year.

21 **(5) DUTIES OF THE DEPARTMENT.** The department shall do all of the following:

22 (a) Notify the department of revenue of every certification issued under sub.
23 (2) (a) and include the dates on which any such certification is granted and the date
24 on which the applicant may withdraw a qualified investment made in a community

ASSEMBLY BILL 186**SECTION 36**

1 development financial institution, which date shall be no earlier than the first day
2 of the 61st month after the qualified investment was made.

3 (b) Provide to each applicant for certification under sub. (2) (a) a dated written
4 notice indicating the department's decision to grant or deny certification. If
5 certification is granted, the notice shall include the date on which the applicant may
6 withdraw the qualified investment, which date shall be no earlier than the first day
7 of the 61st month after the qualified investment was made.

8 (c) Notify the department of revenue of each community development financial
9 institution registered under sub. (2) (b).

10 (d) Promulgate rules to administer this program.

11 (END)