State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2879/1
EKL&MDE:cdc

2025 BILL

AN ACT ***to repeal*** 71.07 (9m) (a) 1m., 71.28 (6) (a) 1m. and 71.47 (6) (a) 1m.; ***to amend*** 71.07 (9m) (a) 2m., 71.07 (9m) (a) 3., 71.07 (9m) (c) (intro.), 71.07 (9m) (c) 1., 71.07 (9m) (cm), 71.07 (9m) (cn) (intro.), 71.07 (9m) (g) 1., 71.07 (9m) (h), 71.28 (6) (a) 2m., 71.28 (6) (a) 3., 71.28 (6) (c) (intro.), 71.28 (6) (c) 1., 71.28 (6) (cm), 71.28 (6) (cn) (intro.), 71.28 (6) (g) 1., 71.28 (6) (h), 71.47 (6) (a) 2m., 71.47 (6) (a) 3., 71.47 (6) (c) (intro.), 71.47 (6) (c) 1., 71.47 (6) (cm), 71.47 (6) (cn) (intro.), 71.47 (6) (g) 1., 71.47 (6) (h) and 238.17 (2); ***to create*** 71.07 (9m) (a) 4., 71.07 (9m) (ck), 71.28 (6) (a) 4., 71.28 (6) (ck), 71.47 (6) (a) 4. and 71.47 (6) (ck) of the statutes; **relating to:** modifications to the historic rehabilitation tax credit.

Analysis by the Legislative Reference Bureau

This bill modifies the historic rehabilitation tax credit, which allows taxpayers to claim a credit for the amounts spent to rehabilitate certified historic structures located in Wisconsin. The credit is based on the federal rehabilitation tax credit. In general, a taxpayer may claim both credits for the same rehabilitation project;

however, in some cases, a taxpayer may not be able to claim both due to differences in state and federal law.

Under current law, taxpayers may claim a credit equal to 20 percent of their qualified rehabilitation expenditures so long as the expenditures are at least $50,000. Federal law further requires the expenditures exceed the greater of the taxpayer's adjusted basis in the property (initial cost with certain adjustments) or $5,000. The bill provides that the federal requirement does not apply, while maintaining the $50,000 threshold.

Also under current law, a taxpayer must be certified by the Wisconsin Economic Development Corporation to claim the credit. As part of this requirement, the taxpayer must provide to WEDC evidence that the State Historic Preservation Officer approved the rehabilitation before the work began and that the SHPO recommended the rehabilitation for approval to the U.S. Secretary of the Interior. The bill removes the requirement regarding SHPO recommendation for federal approval if the taxpayer claims only the state credit.

The bill modifies the timing for claiming the credit, which is currently based on when the taxpayer claims the federal credit. Federal law, as amended by the Tax Cuts and Jobs Act of 2017, generally requires taxpayers claim the credit in equal amounts over five years. Under the bill, the full credit is generally claimed in one year.

The bill sunsets the credit for the rehabilitation of qualifying buildings that are not certified historic structures and the corresponding requirement that WEDC certify taxpayers to claim that credit. The Tax Cuts and Jobs Act had sunsetted a similar federal credit.

Finally, current law prohibits WEDC from certifying persons to claim more than a total of $3,500,000 in tax credits for all projects undertaken on the same parcel. Under the bill, this restriction only applies to certifying persons to claim tax credits for all projects undertaken on the same parcel within a single 10-year period.

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:

SECTION 1. 71.07 (9m) (a) 1m. of the statutes is repealed.

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

71.07 **(9m)** (a) 2m. For taxable years beginning after December 31, 2013, <u>and before January 1, 2026,</u> any person may claim as a credit against taxes otherwise due under s. 71.02, 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, and before January 1, 2026.

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

71.07 **(9m)** (a) 3. For taxable years beginning after December 31, 2013, and before January 1, 2026, any person may claim as a credit against taxes otherwise due under s. 71.02, 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 before January 1, 2026, 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 4. 71.07 (9m) (a) 4. of the statutes is created to read:

71.07 **(9m)** (a) 4. For taxable years beginning after December 31, 2025, any person may claim as a credit against taxes otherwise due under s. 71.02, up to the amount of those taxes, an amount equal to 20 percent of the qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for a qualified rehabilitated building located in this state and placed in service after December 31, 2025. For purposes of this subdivision, "qualified rehabilitated building" has the meaning given in section 47 (c) (1) of the Internal Revenue Code, except that a building shall be treated as having been substantially rehabilitated under section 47 (c) (1) (B) (i) of the Internal Revenue Code only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by federal regulations) and ending with or within the taxable year are at least $50,000.

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

71.07 **(9m)** (c) (intro.) No person may claim the credit under par. (a) 2m. <u>or 4.</u> unless the claimant includes with the claimant's return 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:

SECTION 6. 71.07 (9m) (c) 1. of the statutes is amended to read:

71.07 **(9m)** (c) 1. ~~Evidence~~ <u>If the claimant claims the credit under section 47 of the Internal Revenue Code for the same rehabilitation, evidence</u> 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 state historic preservation officer. <u>If the claimant does not claim the credit under section 47 of the Internal Revenue Code for the same rehabilitation, evidence that the rehabilitation was approved by the</u>

state historic preservation officer before the physical work of construction, or destruction in preparation for construction, began.

SECTION 7. 71.07 (9m) (ck) of the statutes is created to read:

71.07 **(9m)** (ck) A credit claimed under par. (a) 4. shall be claimed in the taxable year in which the qualified rehabilitated building is placed in service, unless the taxpayer makes the election under par. (g) 1. to claim the credit based on progress expenditures under section 47 (d) of the Internal Revenue Code.

SECTION 8. 71.07 (9m) (cm) of the statutes is amended to read:

71.07 **(9m)** (cm) Any credit claimed under ~~this subsection for Wisconsin purposes~~ par. (a) 2m. or 3. shall be claimed at the same time as for federal purposes.

SECTION 9. 71.07 (9m) (cn) (intro.) of the statutes is amended to read:

71.07 **(9m)** (cn) (intro.) For taxable years beginning after December 31, 2014, and before January 1, 2026, the Wisconsin Economic Development Corporation shall certify a person to claim a credit under par. (a) 3. if all of the following apply:

SECTION 10. 71.07 (9m) (g) 1. of the statutes is amended to read:

71.07 **(9m)** (g) 1. If a person who claims the credit ~~under this subsection~~ under par. (a) 2m., 3., or 4. elects to claim the credit based on ~~claiming amounts for expenditures as the expenditures are paid, rather than when the rehabilitation work is completed~~ progress expenditures under section 47 (d) of the Internal Revenue Code, the person shall file an election form with the department, in the manner prescribed by the department.

SECTION 11. 71.07 (9m) (h) of the statutes is amended 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., or 4., in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 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. The transferor may file a claim for more than one taxable year on a form prescribed by the department to compute all years of the credit under par. (a) 2m. ~~or~~, 3., or 4., at the time of the transfer request. The transferee may first use the credit to offset tax in the taxable year of the transferor in which the transfer occurs and may use the credit only to offset tax in taxable years otherwise allowed to be claimed and carried forward by the original claimant.

SECTION 12. 71.28 (6) (a) 1m. of the statutes is repealed.

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

71.28 **(6)** (a) 2m. For taxable years beginning after December 31, 2013, and before January 1, 2026, 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, and before January 1, 2026.

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

71.28 **(6)** (a) 3. For taxable years beginning after December 31, 2013, and before January 1, 2026, 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, <u>and before January 1, 2026,</u> 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) (a) 4. of the statutes is created to read:

71.28 **(6)** (a) 4. For taxable years beginning after December 31, 2025, 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 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for a qualified rehabilitated building located in this state and placed in service after December 31, 2025. For purposes of this subdivision, "qualified rehabilitated building" has the meaning given in section 47 (c) (1) of the Internal Revenue Code, except that a building shall be treated as having been substantially rehabilitated under section 47 (c) (1) (B) (i) of the Internal Revenue Code only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by federal regulations) and ending with or within the taxable year are at least $50,000.

SECTION 16. 71.28 (6) (c) (intro.) of the statutes is amended to read:

71.28 **(6)** (c) (intro.) No person may claim the credit under par. (a) 2m. or 4. unless the claimant includes with the claimant's return 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:

SECTION 17. 71.28 (6) (c) 1. of the statutes is amended to read:

71.28 **(6)** (c) 1. ~~Evidence~~ If the claimant claims the credit under section 47 of the Internal Revenue Code for the same rehabilitation, 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 state historic preservation officer. If the claimant does not claim the credit under section 47 of the Internal Revenue Code for the same rehabilitation, evidence that the rehabilitation was approved by the state historic preservation officer before the physical work of construction, or destruction in preparation for construction, began.

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

71.28 **(6)** (ck) A credit claimed under par. (a) 4. shall be claimed in the taxable year in which the qualified rehabilitated building is placed in service, unless the taxpayer makes the election under par. (g) 1. to claim the credit based on progress expenditures under section 47 (d) of the Internal Revenue Code.

SECTION 19. 71.28 (6) (cm) of the statutes is amended to read:

71.28 **(6)** (cm) Any credit claimed under ~~this subsection for Wisconsin purposes~~ par. (a) 2m. or 3. shall be claimed at the same time as for federal purposes.

SECTION 20. 71.28 (6) (cn) (intro.) of the statutes is amended to read:

71.28 **(6)** (cn) (intro.) For taxable years beginning after December 31, 2014, and before January 1, 2026, the Wisconsin Economic Development Corporation shall certify a person to claim a credit under par. (a) 3. if all of the following apply:

SECTION 21. 71.28 (6) (g) 1. of the statutes is amended to read:

71.28 **(6)** (g) 1. If a person who claims the credit ~~under this subsection~~ under par. (a) 2m., 3., or 4. elects to claim the credit based on ~~claiming amounts for expenditures as the expenditures are paid, rather than when the rehabilitation work is completed~~ progress expenditures under section 47 (d) of the Internal Revenue Code, the person shall file an election form with the department, in the manner prescribed by the department.

SECTION 22. 71.28 (6) (h) of the statutes is amended 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., or 4., in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 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. The transferor may file a claim for more than one taxable year on a form prescribed by the department to compute all years of the credit under par. (a) 2m. ~~or~~, 3., or 4., at the time of the transfer request. The transferee may first use the credit to offset tax in the taxable year of the transferor in which the transfer occurs, and may use the credit only to offset tax in taxable years otherwise allowed to be claimed and carried forward by the original claimant.

SECTION 23. 71.47 (6) (a) 1m. of the statutes is repealed.

SECTION 24. 71.47 (6) (a) 2m. of the statutes is amended to read:

71.47 **(6)** (a) 2m. For taxable years beginning after December 31, 2013, <u>and before January 1, 2026,</u> 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<u>, and before January 1, 2026</u>.

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

71.47 **(6)** (a) 3. For taxable years beginning after December 31, 2013, <u>and before January 1, 2026,</u> 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, <u>and before January 1, 2026,</u> 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 26. 71.47 (6) (a) 4. of the statutes is created to read:

71.47 **(6)** (a) 4. For taxable years beginning after December 31, 2025, 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 qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the Internal Revenue Code, for a qualified rehabilitated building located in this state and placed in service after December 31, 2025. For purposes of this subdivision, "qualified rehabilitated building" has the meaning given in section 47 (c) (1) of the Internal Revenue Code, except that a building shall be treated as having been substantially rehabilitated under section 47 (c) (1) (B) (i) of the Internal Revenue Code only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by federal regulations) and ending with or within the taxable year are at least $50,000.

SECTION 27. 71.47 (6) (c) (intro.) of the statutes is amended to read:

71.47 **(6)** (c) (intro.) No person may claim the credit under par. (a) 2m. or 4. unless the claimant includes with the claimant's return 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:

SECTION 28. 71.47 (6) (c) 1. of the statutes is amended to read:

71.47 **(6)** (c) 1. ~~Evidence~~ If the claimant claims the credit under section 47 of the Internal Revenue Code for the same rehabilitation, 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 state historic preservation officer. If the claimant does not claim the credit under section 47 of the Internal Revenue Code for the same rehabilitation, evidence that the rehabilitation was approved by the state historic preservation officer before the physical work of construction, or destruction in preparation for construction, began.

SECTION 29. 71.47 (6) (ck) of the statutes is created to read:

71.47 **(6)** (ck) A credit claimed under par. (a) 4. shall be claimed in the taxable year in which the qualified rehabilitated building is placed in service, unless the taxpayer makes the election under par. (g) 1. to claim the credit based on progress expenditures under section 47 (d) of the Internal Revenue Code.

SECTION 30. 71.47 (6) (cm) of the statutes is amended to read:

71.47 **(6)** (cm) Any credit claimed under ~~this subsection for Wisconsin purposes~~ par. (a) 2m. or 3. shall be claimed at the same time as for federal purposes.

SECTION 31. 71.47 (6) (cn) (intro.) of the statutes is amended to read:

71.47 **(6)** (cn) (intro.) For taxable years beginning after December 31, 2014, and before January 1, 2026, the Wisconsin Economic Development Corporation shall certify a person to claim a credit under par. (a) 3. if all of the following apply:

SECTION 32. 71.47 (6) (g) 1. of the statutes is amended to read:

71.47 **(6)** (g) 1. If a person who claims the credit ~~under this subsection~~ under par. (a) 2m, 3., or 4. elects to claim the credit based on ~~claiming amounts for~~

~~expenditures as the expenditures are paid, rather than when the rehabilitation work is completed~~ progress expenditures under section 47 (d) of the Internal Revenue Code, the person shall file an election form with the department, in the manner prescribed by the department.

SECTION 33. 71.47 (6) (h) of the statutes is amended 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., or 4., in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 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. The transferor may file a claim for more than one taxable year on a form prescribed by the department to compute all years of the credit under par. (a) 2m. ~~or~~, 3., or 4., at the time of the transfer request. The transferee may first use the credit to offset tax in the taxable year of the transferor in which the transfer occurs, and may use the credit only to offset tax in taxable years otherwise allowed to be claimed and carried forward by the original claimant.

SECTION 34. 238.17 (2) of the statutes is amended to read:

238.17 **(2)** Beginning July 1, 2018, the corporation may not certify persons to claim more than a total of $3,500,000 in tax credits within a single 10-year period for all projects undertaken on the same parcel.

SECTION 35. Nonstatutory provisions.

(1) The amendments to ss. 71.07 (9m) (a) 2m. and 3., 71.28 (6) (a) 2m. and 3., and 71.47 (6) (a) 2m. and 3. do not affect the ability of a claimant who claims a

credit under s. 71.07 (9m) (a) 2m. or 3., 71.28 (6) (a) 2m. or 3., or 71.47 (6) (a) 2m. or 3. for a taxable year beginning before January 1, 2026, and who is subject to the timing requirement in section 47 (a) (2) of the Internal Revenue Code under s. 71.07 (9m) (cm), 71.28 (6) (cm), or 71.47 (6) (cm), to claim any remaining ratable share of the credit in a taxable year beginning after December 31, 2025.

(END)