

Date of enactment: **March 28, 2018**

2017 Assembly Bill 869 Date of publication*: **March 29, 2018**

* 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."

2017 WISCONSIN ACT 176

AN ACT *to amend* 71.08 (1) (intro.) and 76.67 (2); and *to create* 71.07 (8b), 71.10 (4) (fb), 71.28 (8b), 71.30 (3) (cs), 71.47 (8b), 71.49 (1) (cs), 76.639 and 234.45 of the statutes; **relating to**: an income and franchise tax credit for the development of low-income housing.

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

SECTION 1. 71.07 (8b) of the statutes is created to read:

71.07 (8b) LOW-INCOME HOUSING CREDIT. (a) *Definitions.* In this subsection:

1. "Allocation certificate" means a statement issued by the authority certifying that a qualified development is eligible for a credit under this subsection and specifying the amount of the credit that the owners of the qualified development may claim.

2. "Authority" means the Wisconsin Housing and Economic Development Authority.

3. "Claimant" means a person who has an ownership interest in a qualified development and who files a claim under this subsection.

4. "Compliance period" means the 15-year period beginning with the first taxable year of the credit period.

5. "Credit period" means the period of 6 taxable years beginning with the taxable year in which a qualified development is placed in service. For purposes of this subdivision, if a qualified development consists of more than one building, the qualified development is placed in service in the taxable year in which the last building of the qualified development is placed in service.

6. "Qualified basis" means the qualified basis determined under section 42 (c) (1) of the Internal Revenue Code.

7. "Qualified development" means a qualified low-income housing project under section 42 (g) of the Internal Revenue Code that is financed with tax-exempt bonds, pursuant to section 42 (i) (2) of the Internal Revenue Code, and located in this state.

(b) *Filing claims.* Subject to the limitations provided in this subsection and in s. 234.45, for taxable years beginning after December 31, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of the tax, the amount allocated to the claimant by the authority under s. 234.45 for each taxable year within the credit period.

(c) *Limitations.* 1. No person may claim the credit under par. (b) unless the claimant includes with the claimant's return a copy of the allocation certificate issued to the qualified development.

2. A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax-option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, limited liability company, or tax-option corporation. The partnership, limited liability company, or tax-option corporation shall calculate the amount of the credit that may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax-option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. Any partner or member who claims the credit as allocated by a written agreement shall provide a copy of the agreement with the tax return on which the credit is claimed. A person claiming the

credit as provided under this subdivision is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

(d) *Recapture*. 1. As of the last day of any taxable year during the compliance period, if the amount of the qualified basis of a qualified development with respect to a claimant is less than the amount of the qualified basis as of the last day of the immediately preceding taxable year, the amount of the claimant's tax liability under this subchapter shall be increased by the recapture amount determined by using the method under section 42 (j) of the Internal Revenue Code.

2. In the event that the recapture of any credit is required in any taxable year, the taxpayer shall include the recaptured proportion of the credit on the return submitted for the taxable year in which the recapture event is identified.

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

SECTION 1m. 71.08 (1) (intro.) of the statutes, as affected by 2017 Wisconsin Act 58, 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), (2dx), (2dy), (3m), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (3wm), (3y), (4k), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8b), (8r), (9e), (9m), and (9r), 71.28 (1dx), (1dy), (2m), (3), (3n), (3t), (3w), (3wm), and (3y), 71.47 (1dx), (1dy), (2m), (3), (3n), (3t), (3w), and (3y), 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 2. 71.10 (4) (fb) of the statutes is created to read:

71.10 (4) (fb) Low-income housing credit under s. 71.07 (8b).

SECTION 3. 71.28 (8b) of the statutes is created to read:

71.28 (8b) **LOW-INCOME HOUSING CREDIT.** (a) *Definitions.* In this subsection:

1. "Allocation certificate" means a statement issued by the authority certifying that a qualified development is eligible for a credit under this subsection and specifying the amount of the credit that the owners of the qualified development may claim.

2. "Authority" means the Wisconsin Housing and Economic Development Authority.

3. "Claimant" means a person who has an ownership interest in a qualified development and who files a claim under this subsection.

4. "Compliance period" means the 15-year period beginning with the first taxable year of the credit period.

5. "Credit period" means the period of 6 taxable years beginning with the taxable year in which a qualified development is placed in service. For purposes of this subdivision, if a qualified development consists of more than one building, the qualified development is placed in service in the taxable year in which the last building of the qualified development is placed in service.

6. "Qualified basis" means the qualified basis determined under section 42 (c) (1) of the Internal Revenue Code.

7. "Qualified development" means a qualified low-income housing project under section 42 (g) of the Internal Revenue Code that is financed with tax-exempt bonds, pursuant to section 42 (i) (2) of the Internal Revenue Code, and located in this state.

(b) *Filing claims.* Subject to the limitations provided in this subsection and in s. 234.45, for taxable years beginning after December 31, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, the amount allocated to the claimant by the authority under s. 234.45 for each taxable year within the credit period.

(c) *Limitations.* 1. No person may claim the credit under par. (b) unless the claimant includes with the claimant's return a copy of the allocation certificate issued to the qualified development.

2. A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax-option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, limited liability company, or tax-option corporation. The partnership, limited liability company, or tax-option corporation shall calculate the amount of the credit that may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax-option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. Any partner or member who claims the credit as allocated by a written agreement shall provide a copy of the agreement with the tax return on which the credit is claimed. A person claiming the credit as provided under this subdivision is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

(d) *Recapture*. 1. As of the last day of any taxable year during the compliance period, if the amount of the qualified basis of a qualified development with respect to a claimant is less than the amount of the qualified basis as of the last day of

the immediately preceding taxable year, the amount of the claimant's tax liability under this subchapter shall be increased by the recapture amount determined by using the method under section 42 (j) of the Internal Revenue Code.

2. In the event that the recapture of any credit is required in any taxable year, the taxpayer shall include the recaptured proportion of the credit on the return submitted for the taxable year in which the recapture event is identified.

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

SECTION 4. 71.30 (3) (cs) of the statutes is created to read:

71.30 (3) (cs) Low-income housing credit under s. 71.28 (8b).

SECTION 5. 71.47 (8b) of the statutes is created to read:

71.47 (8b) LOW-INCOME HOUSING CREDIT. (a) *Definitions.* In this subsection:

1. "Allocation certificate" means a statement issued by the authority certifying that a qualified development is eligible for a credit under this subsection and specifying the amount of the credit that the owners of the qualified development may claim.

2. "Authority" means the Wisconsin Housing and Economic Development Authority.

3. "Claimant" means a person who has an ownership interest in a qualified development and who files a claim under this subsection.

4. "Compliance period" means the 15-year period beginning with the first taxable year of the credit period.

5. "Credit period" means the period of 6 taxable years beginning with the taxable year in which a qualified development is placed in service. For purposes of this subdivision, if a qualified development consists of more than one building, the qualified development is placed in service in the taxable year in which the last building of the qualified development is placed in service.

6. "Qualified basis" means the qualified basis determined under section 42 (c) (1) of the Internal Revenue Code.

7. "Qualified development" means a qualified low-income housing project under section 42 (g) of the Internal Revenue Code that is financed with tax-exempt bonds, pursuant to section 42 (i) (2) of the Internal Revenue Code, and located in this state.

(b) *Filing claims.* Subject to the limitations provided in this subsection and in s. 234.45, for taxable years beginning after December 31, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the tax, the amount allocated to the claimant by the authority under s. 234.45 for each taxable year within the credit period.

(c) *Limitations.* 1. No person may claim the credit under par. (b) unless the claimant includes with the claimant's return a copy of the allocation certificate issued to the qualified development.

2. A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax-option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, limited liability company, or tax-option corporation. The partnership, limited liability company, or tax-option corporation shall calculate the amount of the credit that may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax-option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. Any partner or member who claims the credit as allocated by a written agreement shall provide a copy of the agreement with the tax return on which the credit is claimed. A person claiming the credit as provided under this subdivision is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

(d) *Recapture.* 1. As of the last day of any taxable year during the compliance period, if the amount of the qualified basis of a qualified development with respect to a claimant is less than the amount of the qualified basis as of the last day of the immediately preceding taxable year, the amount of the claimant's tax liability under this subchapter shall be increased by the recapture amount determined by using the method under section 42 (j) of the Internal Revenue Code.

2. In the event that the recapture of any credit is required in any taxable year, the taxpayer shall include the recaptured proportion of the credit on the return submitted for the taxable year in which the recapture event is identified.

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

SECTION 6. 71.49 (1) (cs) of the statutes is created to read:

71.49 (1) (cs) Low-income housing credit under s. 71.47 (8b).

SECTION 7. 76.639 of the statutes is created to read:

