



## 2005 ASSEMBLY BILL 573

July 21, 2005 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Urban and Local Affairs.

1     **AN ACT to renumber and amend** 70.11 (4); **to amend** 70.11 (intro.); and **to**  
2     **create** 70.11 (4) (c) and 70.11 (4) (d) of the statutes; **relating to:** revision and  
3     elimination of the exemption from the property tax for certain property and the  
4     use of income from certain tax-exempt leased property.

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### *Analysis by the Legislative Reference Bureau*

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Tax Exemptions for Residential Property (Columbus Park).

Revision and Reorganization of s. 70.11 (intro.) and (4), stats.

Under current law, property owned and used exclusively by certain entities specified under s. 70.11 (4), stats., is exempt from the property tax while such property

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is used not for profit. This bill reorganizes s. 70.11 (4) to make it more readable and to place the types of property that are exempt under that section into separate statutory subdivisions.

The bill also eliminates the property tax exemption for certain residential property owned by a benevolent association. Specifically, the bill revises the property tax exemption under current s. 70.11 (4) for “property owned by benevolent associations, including benevolent nursing homes and retirement homes for the aged” by setting forth the specific types of property owned by a benevolent association that are exempt from property taxes.

The types of property owned by a benevolent association that are exempt from the property tax under the bill are:

- a. Nursing homes licensed under s. 50.03.
- b. Community based residential facilities licensed under s. 50.03.
- c. Adult family homes certified under s. 50.032 or licensed under s. 50.033.
- d. Residential care apartment complexes registered or certified under s. 50.034.
- e. Domestic abuse shelters.
- f. Shelters for the homeless, including transitional housing facilities.
- g. Housing for low-income persons that is operated in compliance with sections 3.01 and 3.02 (1), (2) and (3) of Internal Revenue Service (IRS) revenue procedure 96-32 or that is described in section 4.02 (4) or 4.02 (9) of that revenue procedure.

Sections 3.01 and 3.02 (1), (2) and (3) of IRS revenue procedure 96-32 set forth income eligibility limits for federal low-income housing programs. Generally, those limits are as follows:

- (a) At least 75 percent of the units are occupied by residents that qualify as low-income (generally, an income at or below 80 percent of an area’s median income): and
- (b) Either at least 20 percent of the units are occupied by residents that also meet the very low-income limit for the area (generally, an income at or below 50 percent of an area’s median income) or 40 percent of the units are occupied by residents that also do not exceed 120 percent of the area’s very low-income limit. Up to 25 percent of the units may be provided at market rates to persons who have incomes in excess of the low-income limit.

Income limits are computed and published by the Department of Housing and Urban Development (HUD). There are provisions that permit an individual tenant’s income to rise above the limits under certain circumstances.

Section 4.02 (4) refers to government housing programs designed to provide affordable housing. Section 4.02 (9) refers to programs designed to provide home ownership opportunities for families that cannot otherwise afford to purchase safe and decent housing.

h. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.

i. Residential housing for persons with permanent disabilities.

j. Property that is not residential housing.

Under the bill, property owned by a benevolent association that is residential housing is subject to the property tax if it does not fit within any of the categories described under a. through i., above.

Nonresidential property owned and used exclusively by a benevolent association remains exempt from the property tax.

Under the bill, nonresidential property owned by a church or religious association is exempt from the property tax. Residential property owned by a church or religious association is exempt if it is described in any of the categories listed under a. through i., above, or if it is used for housing for pastors or their ordained assistants, members of religious orders or communities, or ordained teachers.

These provisions first apply to property tax assessments as of January 1, 2007, which are payable in 2008.

Use of Leasehold Income

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Under current law, if property that is exempt from taxation under s. 70.11 is leased, the property retains its tax exemption only if the owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property or both. [s. 70.11 (intro.), stats.] This is commonly referred to as the “rent use” requirement”.

The bill provides that leasing property described in s. 70.11 (4), stats., as residential housing does not render the property taxable if the property owner uses all of the lease income to further its benevolent or educational activities, or in the case of a church or religious association, to further the activities of the church or association. In addition, the bill provides that a property owner may not discriminate based on race.

This provision applies retroactively to property tax assessments as of January 1, 2003, which were payable in 2004.

1           **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

2           **70.11 Property exempted from taxation.** (intro.) The property described  
3 in this section is exempted from general property taxes if the property is exempt  
4 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and  
5 its use, occupancy or ownership did not change in a way that makes it taxable; if the  
6 property was taxable for the previous year, the use, occupancy or ownership of the  
7 property changed in a way that makes it exempt and its owner, on or before March 1,  
8 files with the assessor of the taxation district where the property is located a form  
9 that the department of revenue prescribes or if the property did not exist in the  
10 previous year and its owner, on or before March 1, files with the assessor of the  
11 taxation district where the property is located a form that the department of revenue  
12 prescribes. Leasing a part of the property described in this section does not render  
13 it taxable if, except for property described in sub. (4), the lessor uses all of the  
14 leasehold income for maintenance of the leased property or construction debt  
15 retirement of the leased property, or both, and, except for residential housing, if the  
16 lessee would be exempt from taxation under this chapter if it owned the property.  
17 Leasing property described in sub. (4) as residential housing does not render it  
18 taxable if the property owner uses all of the leasehold income to further the  
19 benevolent or educational activities of the owner, or, in the case of a church or

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1 religious association, to further the activities of the church or association. Any lessor  
2 who claims that leased property is exempt from taxation under this chapter shall,  
3 upon request by the tax assessor, provide records relating to the lessor's use of the  
4 income from the leased property. Property exempted from general property taxes is:

5 **SECTION 2.** 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and  
6 amended to read:

7 70.11 (4) (intro.) Property owned and used exclusively by ~~educational~~ any of the  
8 entities described in this subsection while such property is used not for profit.  
9 Property that is exempt from taxation under this subsection and is leased remains  
10 exempt from taxation only if, in addition to the requirements specified in the  
11 introductory phrase of this section, the property owner and the lessee do not  
12 discriminate on the basis of race. The amount of land exempt under this subsection  
13 may not exceed 10 acres of land necessary for location and convenience of buildings,  
14 except as provided in par. (b). This subsection does not include property owned by  
15 an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that  
16 offers a health maintenance organization as defined in s. 609.01 (2) or a limited  
17 service health organization as defined in s. 609.01 (3) or by an organization that is  
18 issued a certificate of authority under ch. 618 and that offers a health maintenance  
19 organization or a limited service health organization or by any nonstock, nonprofit  
20 corporation which services guaranteed student loans for others or on its own account.  
21 The property of the following entities is exempt from taxation under this subsection.

22 (a) Educational institutions offering regular courses 6 months in the year; ~~or~~  
23 ~~by churches and educational associations.~~

24 (b) Churches or religious, ~~educational or benevolent~~ associations, including  
25 ~~benevolent nursing homes and retirement homes for the aged but not including an~~

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1 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers  
2 a health maintenance organization as defined in s. 609.01 (2) or a limited service  
3 health organization as defined in s. 609.01 (3) or an organization that is issued a  
4 certificate of authority under ch. 618 and that offers a health maintenance  
5 organization or a limited service health organization and not including property  
6 owned by any nonstock, nonprofit corporation which services guaranteed student  
7 loans for others or on its own account, and also including property owned and used  
8 for housing for pastors and their ordained assistants, members of religious orders  
9 and communities, and ordained teachers, whether or not contiguous to and a part of  
10 other property owned and used by such associations or churches; or by women's, but  
11 not other types of residential housing except for the property described in par. (c).  
12 Property owned by churches or religious associations necessary for location and  
13 convenience of buildings, used for educational purposes and not for profit, shall not  
14 be subject to the 10-acre limitation under this subsection but shall be subject to a  
15 30-acre limitation.

16 (e) Women's clubs; or by domestic,

17 (f) Domestic incorporated historical societies; or by domestic,

18 (g) Domestic incorporated, free public library associations; or by fraternal,

19 (h) Fraternal societies operating under the lodge system (except university,  
20 college and high school fraternities and sororities), but not exceeding 10 acres of land  
21 necessary for location and convenience of buildings while such property is not used  
22 for profit. Property owned by churches or religious associations necessary for  
23 location and convenience of buildings, used for educational purposes and not for  
24 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre  
25 limitation. Property that is exempt from taxation under this subsection and is leased

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1 ~~remains exempt from taxation only if, in addition to the requirements specified in the~~  
2 ~~introductory phrase of this section, the lessee does not discriminate on the basis of~~  
3 ~~race, except university, college, and high school fraternities and sororities.~~

4 **SECTION 3.** 70.11 (4) (c) of the statutes is created to read:

5 70.11 (4) (c) Benevolent associations, churches, or religious associations, if the  
6 property is any of the following:

7 1. A nursing home licensed under s. 50.03.

8 2. A community-based residential facility licensed under s. 50.03.

9 3. An adult family home certified under s. 50.032 or licensed under s. 50.033.

10 4. A residential care apartment complex registered or certified under s. 50.034.

11 5. A domestic abuse shelter.

12 6. A shelter for the homeless, including transitional housing facilities.

13 7. Housing for low-income persons that is operated in compliance with sections  
14 3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in  
15 section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.

16 In order to claim the exemption under this subdivision, the property owner shall  
17 provide the assessor an affidavit stating that the property meets the requirements  
18 under this subdivision. For the purposes of this subdivision, "project", as used in  
19 Internal Revenue Service revenue procedure 96-32, includes property located on  
20 more than one tax parcel, if the parcels are owned or operated by the same person  
21 and are adjacent, separated only by a street or other public right-of-way, or within  
22 the same condominium development.

23 8. A residential facility, the primary purpose of which is to provide alcohol or  
24 other drug abuse treatment or services or housing for persons with, or who are  
25 recovering from, alcohol or other drug abuse problems.

