



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3150/P1

JK:...:ch

lmk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(LPS: anal: jlcnote)

This bill is explained in the ^{CS}NOTES provided by the Joint Legislative Council in the bill.

TAX-EM
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IN 6-6-05

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

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill ^{bill}draft 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 is used not for profit. This ^{bill}draft 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. ^{bill}

This ^{bill}draft also eliminates the property tax exemption for certain residential property owned by a benevolent association. Specifically, the ^{bill}draft 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 ~~draft~~ ^{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. 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. ✓

INSERT
2-A

bill

Under the ~~draft~~ ^{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 ~~draft~~ ^{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

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 ~~draft~~ ^{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 ~~draft~~ ^{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.

bill

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

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

20 **SECTION 2.** 70.11 (4) of the statutes is ^{renumbered 70.11(4)(a) and} amended to read:

21 70.11 (4) ^(a) ~~EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS;~~
 22 ~~HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES.~~ Property owned and used exclusively
 23 by ~~educational~~ any of the entities described in this subsection while such property
 24 is used not for profit. Property that is exempt from taxation under this subsection and
 25 is leased remains exempt from taxation only if, in addition to the requirements

1 specified in the introductory phrase of this section, the property owner and the lessee
2 do not discriminate on the basis of race. The amount of land exempt under this
3 subsection may not exceed 10 acres of land necessary for location and convenience
4 of buildings, except as provided in par. (b). This subsection does not include property
5 owned by an organization that is organized under s. 185.981 or ch. 611, 613, or 614
6 and that offers a health maintenance organization as defined in s. 609.01 (2) or a
7 limited service health organization as defined in s. 609.01 (3) or by an organization
8 that is issued a certificate of authority under ch. 618 and that offers a health
9 maintenance organization or a limited service health organization or by any
10 nonstock, nonprofit corporation which services guaranteed student loans for others
11 or on its own account.

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

14 (b) Churches or religious, educational or benevolent associations, including
15 benevolent nursing homes and retirement homes for the aged but not including an
16 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers
17 a health maintenance organization as defined in s. 609.01 (2) or a limited service
18 health organization as defined in s. 609.01 (3) or an organization that is issued a
19 certificate of authority under ch. 618 and that offers a health maintenance
20 organization or a limited service health organization and not including property
21 owned by any nonstock, nonprofit corporation which services guaranteed student
22 loans for others or on its own account, and also including property owned and used
23 for housing for pastors and their ordained assistants, members of religious orders
24 and communities, and ordained teachers, whether or not contiguous to and a part of
25 other property owned and used by such associations or churches; or by women's, but

- 1 not other types of residential housing except for the property described in par. (c).
2 Property owned by churches or religious associations necessary for location and
3 convenience of buildings, used for educational purposes and not for profit, shall not
4 be subject to the 10-acre limitation but shall be subject to a 30-acre limitation.

5 (c) Benevolent associations, churches or religious associations if the property
6 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 Internal Revenue Service revenue procedure 96-32. The
16 property owner shall provide the assessor an affidavit stating that the property
17 meets this requirement. For the purposes of this subdivision, "project", when used
18 in Internal Revenue Service revenue procedure 96-32, includes property located on
19 more than one tax parcel, if the parcels are owned or operated by the same person
20 and are adjacent, separated only by a street or other public right-of-way, or within
21 the same condominium development.
- 22 8. A residential facility, the primary purpose of which is to provide alcohol or
23 other drug abuse treatment or services or housing for persons with, or who are
24 recovering from, alcohol or other drug abuse problems.

1 ~~9. Residential housing that is occupied by one or more persons with permanent~~
 2 ~~disabilities, for whom evidence is available that demonstrates that these persons~~
 3 ~~meet the medical definition of permanent disability used to determine eligibility for~~
 4 ~~programs administered by the federal social security administration.~~

5 ~~(cm) Benevolent associations if the property is nonresidential.~~

6 (d) Women's clubs; ^{move} or by domestic,

7 (e) Domestic incorporated historical societies; ^{move} or by domestic,

8 (f) Domestic incorporated, free public library associations; ^{move} or by fraternal

9 (g) Fraternal societies operating under the lodge system ~~(except university,~~
 10 ~~college and high school fraternities and sororities), but not exceeding 10 acres of land~~

11 ~~necessary for location and convenience of buildings while such property is not used~~
 12 ~~for profit. Property owned by churches or religious associations necessary for~~

13 ~~location and convenience of buildings, used for educational purposes and not for~~

14 ~~profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre~~

15 ~~limitation. Property that is exempt from taxation under this subsection and is leased~~

16 ~~remains exempt from taxation only if, in addition to the requirements specified in the~~

17 ~~introductory phrase of this section, the lessee does not discriminate on the basis of~~

18 ~~race.~~ ^{except university, college, and high school fraternities and sororities}

19 **SECTION 3. Initial applicability.**

20 (1) The treatment of section 70.11 (intro.) of the statutes first applies to
 21 property tax assessments as of January 1, 2003.

22 (2) The ~~treatment~~ ^{renumbering and amendment} of section 70.11 (4) of the statutes first applies ^{to} property
 23 tax assessments as of January 1, 2007.

24 **SECTION 4. Effective date.**

INSERT 6-18

and the creation of section 70.11(y)(d) and (e) of the statutes

1 (1) The treatment of section 70.11 (intro.) of the statutes takes effect on
2 January 1, 2003.

3 (2) The ~~treatment~~ of section 70.11 (4) of the statutes takes effect on January
4 1, 2007.

5

(END)

*renumbering and amendment
renumbering and amendment*

*the creation of section
and the creation of section
70.11 (4) (d) and (e) of
the statutes*

Insert 2-A

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note:
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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 tenants 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. ✓

end of insert 2-A

INSERT 6 - 18

1 SECTION 1. 70.11 (4) (d) of the statutes is created to read:

2 70.11 (4) (d) Benevolent associations, churches, or religious associations, if the
3 property is any of the following:

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

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

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

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

8 5. A domestic abuse shelter.

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

10 7. Housing for low-income persons that is operated in compliance with sections
11 3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in
12 section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.

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

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

1 9. Residential housing that is occupied by one or more persons with permanent
2 disabilities, for whom evidence is available that demonstrates that these persons
3 meet the medical definition of permanent disability used to determine eligibility for
4 programs administered by the federal social security administration. ✓

5 **SECTION 2.** 70.11 (4) (e) of the statutes is created to read:

6 70.11 (4) (e) Benevolent associations, if the property is not residential.

end of 6-18

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/P1dn

JK:...:ch

lmk

(date)

Please review this draft carefully to ensure that it is consistent with your intent. ✓

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3150/P1dn
JK:lmk:jf

June 16, 2005

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Kreye, Joseph

From: Matthias, Mary
Sent: Wednesday, June 22, 2005 1:46 PM
To: Kreye, Joseph
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

whatever you prefer... i don't really know the proper protocol ;-)

-----Original Message-----

From: Kreye, Joseph
Sent: Wednesday, June 22, 2005 1:44 PM
To: Matthias, Mary
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

That's it then, I'll do it! Should I make a slash 1 while I'm at.

-----Original Message-----

From: Matthias, Mary
Sent: Wednesday, June 22, 2005 1:42 PM
To: Kreye, Joseph
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

i like your idea. it seems unusual the way it is in the draft now, in that the provisions of one paragraph apply to all the other paragraphs. I think it would be more clear the way you suggest. It might not be perfect, but certainly won't be any weirder than anything else in 70.11.....

-----Original Message-----

From: Kreye, Joseph
Sent: Wednesday, June 22, 2005 1:36 PM
To: Matthias, Mary
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

Mary,

I could add this sentence to the end of par. (a): "The following is exempt under this subsection:" It's redundant with the first sentence of par. (a), but s. 70.11 (intro.) is structured in a similar way. Paragraph (a) would then become the intro and the subsequent paragraphs would be renumbered. It may also read better that way. What do you think?

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

-----Original Message-----

From: Matthias, Mary

Sent: Wednesday, June 22, 2005 1:28 PM
To: Kreye, Joseph
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

thanks!

-----Original Message-----

From: Kreye, Joseph
Sent: Wednesday, June 22, 2005 1:27 PM
To: Matthias, Mary
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

yeah

Joseph T. Kreye

Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

-----Original Message-----

From: Matthias, Mary
Sent: Wednesday, June 22, 2005 1:24 PM
To: Kreye, Joseph
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

so what you're saying is that it functions like an intro but can't be called intro because it can't be drafted to end in a colon?

-----Original Message-----

From: Kreye, Joseph
Sent: Wednesday, June 22, 2005 1:17 PM
To: Matthias, Mary
Cc: Rose, Laura
Subject: RE: Draft review: LRB 05-3150/P1 Topic: Property tax exemption for certain residential property and leased property

Although, that paragraph is an introduction to what is exempt under that subsection, it is not technically an "intro." (i.e. a sentence/paragraph/etc ending in a colon).

Joseph T. Kreye

Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

-----Original Message-----

From: Matthias, Mary
Sent: Wednesday, June 22, 2005 12:32 PM
To: Kreye, Joseph
Cc: Rose, Laura

Subject: FW: Draft review: LRB 05-3150/P1 Topic:
Property tax exemption for certain residential
property and leased property

hi Joe-

Thanks for the draft! It looks good. I do have one
question- on page 4, line 7, should par. (a) be (4)
(intro) instead of (a)?

-----Original Message-----

From: Barman, Mike

Sent: Thursday, June 16, 2005 9:33 AM

To: Matthias, Mary

Subject: Draft review: LRB 05-3150/P1 Topic:
Property tax exemption for certain residential
property and leased property

**Following is the PDF version of draft LRB
05-3150/P1 and drafter's note.**



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3150/P1

JK:lmk:jf

keep RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 6-22-05

due used 6-29

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1 AN ACT to renumber and amend 70.11 (4); to amend 70.11 (intro.); and to
2 create 70.11 (4) (d) and 70.11 (4) (e) 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. ✓

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.

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

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

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

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) ~~(a)~~ and amended
6 to read: *(intro.)* *(intro.)*

7 70.11 (4) ~~(a)~~ *(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. ~~(c)~~ *(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 ~~(b)~~ *(a)* Educational institutions offering regular courses 6 months in the year; or
22 by churches and educational associations.

23 ~~(c)~~ *(b)* Churches or religious, educational or benevolent associations, including
24 benevolent nursing homes and retirement homes for the aged but not including an
25 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers

The property of the following entities is exempt from taxation under this subsections

1 a health maintenance organization as defined in s. 609.01 (2) or a limited service
 2 health organization as defined in s. 609.01 (3) or an organization that is issued a
 3 certificate of authority under ch. 618 and that offers a health maintenance
 4 organization or a limited service health organization and not including property
 5 owned by any nonstock, nonprofit corporation which services guaranteed student
 6 loans for others or on its own account, and also including property owned and used
 7 for housing for pastors and their ordained assistants, members of religious orders
 8 and communities, and ordained teachers, whether or not contiguous to and a part of
 9 other property owned and used by such associations or churches; ~~or by women's, but~~
 10 not other types of residential housing except for the property described in par. (d).

11 Property owned by churches or religious associations necessary for location and
 12 convenience of buildings, used for educational purposes and not for profit, shall not
 13 be subject to the 10-acre limitation under par. (a) but shall be subject to a 30-acre
 14 limitation.

15 ~~(e)~~ ~~(d)~~ (e) Women's clubs; or by domestic,

16 ~~(f)~~ ~~(g)~~ (f) Domestic incorporated historical societies; or by domestic,

17 ~~(g)~~ ~~(h)~~ (g) Domestic incorporated, free public library associations; or by fraternal.

18 ~~(h)~~ ~~(i)~~ (h) Fraternal societies operating under the lodge system (except university,
 19 college and high school fraternities and sororities), but not exceeding 10 acres of land

20 necessary for location and convenience of buildings while such property is not used
 21 for profit. Property owned by churches or religious associations necessary for
 22 location and convenience of buildings, used for educational purposes and not for
 23 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre
 24 limitation. Property that is exempt from taxation under this subsection and is leased
 25 remains exempt from taxation only if, in addition to the requirements specified in the

1 introductory phrase of this section, the lessee does not discriminate on the basis of
2 race, except university, college, and high school fraternities and sororities.

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

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

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

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

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

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

10 5. A domestic abuse shelter.

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

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

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

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

Kreye, Joseph

From: Matthias, Mary
Sent: Thursday, June 23, 2005 11:56 AM
To: Kreye, Joseph
Subject: LRB 05-3150/1

Joe- I think there is typo/snafu in the draft: the phrase regarding fraternities and sororities appears twice- I think you probably intended to delete its first occurrence -- in parens on p. 5, lines 19-20. (It also appears as new material on p. 6, line 3).

other than that i think it is ready to go!

thanks--

Mary



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3150/1

JK:lmk:rs

↑ keep

RMR

2005 BILL

in 6-23-05
due thru 6-30-05

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.

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.

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

BILL

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

BILL

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

BILL**SECTION 1**

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~~

BILL

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 ^{strike} ~~(except university,~~
 20 ~~college and high school fraternities and sororities),~~ ^{strike} 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~~

BILL**SECTION 2**

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.

Emery, Lynn

From: Matthias, Mary
Sent: Thursday, June 23, 2005 3:22 PM
To: LRB.Legal
Subject: Draft review: LRB 05-3150/2 Topic: Property tax exemption for certain residential property and leased property

It has been requested by <Matthias, Mary> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3150/2 Topic: Property tax exemption for certain residential property and leased property