

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB573)

Received: 11/29/2005

Received By: jkreye

Wanted: **Soon**

Identical to LRB:

For: **Mark Gottlieb (608) 267-2369**

By/Representing: **mary matthias**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Property - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gottlieb@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**
mary.matthias@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Property tax exemption for certain property; use of income from certain tax-exempt property

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 12/06/2005	lkunkel 12/07/2005		_____			
/1	jkreye 12/07/2005 jkreye 12/07/2005	lkunkel 12/07/2005	jfrantze 12/07/2005	_____	lemery 12/07/2005 lemery 12/07/2005	lemery 12/07/2005	
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			12/07/2005 _____		12/07/2005	12/07/2005	

FE Sent For:

<END>

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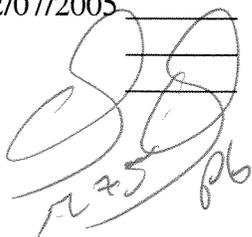
Instructions:

See Attached

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1/2/mk 12/7



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/?	jkreye	1/mk 12/6	J 12/7	J/R 12/7			

FE Sent For:

<END>

Kreye, Joseph

From: Matthias, Mary
Sent: Monday, November 28, 2005 4:19 PM
To: Kreye, Joseph
Cc: Rose, Laura; Solie, Denise
Subject: AB 573 sub drafting request

Hi Joe!

I met with Rep. Gottlieb last Wednesday, and he would like a sub to AB 573 drafted. The sub should be the same as the bill except for the following:

1. Delayed effective date:

✓ Create a 5 year delayed effective date for SECS. 2, 3, and 4 (ie, the changes in the types of property that are exempt/taxable first apply to assessments as of Jan 1, 2011, payable in 2012.) Rent use changes go into effect immediately. The idea is to "fix" rent use for all types of property right away and give the elderly housing providers who will lose their exemption some lead time to prepare financially for the new requirement to pay property taxes.

2. Rent use:

✓ a. Except as provided in b., below, limit the use of leasehold income to benevolent or educational activities of the owner/church/religious association that are conducted in the same county in which the property is located.

✓ b. Provide that if the property that is leased is low-income housing, the leasehold income may be used to support the provision of low-income housing anywhere in the state.

✓ c. In the rent use language, change "further" to "support" (in the bill, it is on pg. 3, line 18 and page 4, line 1.)

✓ d. Change the effective date of the changes to the rent use provision so that the rent use changes are NOT retroactive. In other words, the rent use requirements in current law did apply for the previous 2 years, so that any taxes collected on the basis that the owner did not meet the rent use requirements do not have to be returned to the property owner. But, on the other hand, we do not want assessors to be able to go back and assess taxes against properties that were not assessed, so the sub should amend s. 70.44, re: omitted property, to specify that the provisions of that section do not apply to property previously omitted from the tax rolls solely on the basis of failure of the property owner to comply with the rent use provisions during the years the property was omitted.

3. New category of exempt property:

✓ Add a new category of exempt property to the list in s. 70.11(4). This category would include all low-income residential properties that are funded by WHEDA. This is to counteract WHEDA's vague statements in opposition to the bill, expressing concern that "WHEDA properties" might not be covered. I was looking around in WHEDA's chapter, 234, and thought it might work to word it as follows: "10. All property owned by an eligible sponsor under s. 234.01(5) that is used to provide housing for persons and families of low and moderate income."

separate par.

4. Modification to exemption for residential care apartment complexes

✓ Amend item 70.11(4) (c) 4., the newly-created exemption for rcac's, to specify that an rcac is exempt only if at least 25% of the residents receive daily personal or nursing services (as defined by DHFS rules) pursuant to a written service agreement between the resident and the rcac. (This is to avoid the possibility of senior housing facilities "converting" to rcac's to take advantage of the exemption). Personal and nursing services are defined in HFS 89.

I think that covers everything. Please give me call if you have questions, or I will gladly come down there to talk to you in person!

thanks!
Mary

6-0932

**ELEMENTS OF A SUBSTITUTE AMENDMENT
TO
AB 573
NOVEMBER 15, 2005**

In the interest of advancing AB 573, it is recommended that the following changes be incorporated into a compromise substitute amendment to the bill. These changes address concerns raised by both opponents and supporters of the bill and are offered with the hope of moving forward a compromise version of the bill.

- Integrate Assembly Amendment 1 to 2005 Assembly Bill 573 (LRB a0975/1). See attached. This would provide that profits from tax-exempt housing would be used for benevolent purposes in the county where the housing is located and the income is generated.
- Integrate Assembly Amendment 2 to 2005 Assembly Bill 573 (LRBa1157/1). See attached. This would assure that property would be tax exempt if it was used exclusively or predominantly to serve individuals with special needs, and not if it was used just in small part to serve those individuals.
- Add language delaying the effective date of the bill until January 1, three years after the bill is enacted. The purpose of this change is to address concerns raised by some legislators that it could be unfair to suddenly change the status of property occupied by individuals who currently reside in high end tax exempt senior housing. Regardless of existing law (as described in the Columbus Park case) and common documentation furnished to residents that their properties could become taxable with attendant repricing arrangements, some of those individuals chose to rely on representations by owners that the housing would be tax exempt. While those representations do not create any legal obligation to preserve tax exempt status for the property, a period of adjustment would serve to address the concerns some people have about abrupt changes in the status of the property.
- Add the following language providing assessors with guidance on assessing benevolent association residential property: "In valuing the benevolent and religious residential housing not exempted by law the assessor should do the following: in the absence of an arms-length sale of the subject or of reasonably comparable property, the preferred methodology shall be a reliance on the income approach using market rents, market expenses, market vacancy rates, and market cap rates for similar type and constructed property located in the same or a similar neighborhood within the municipality. The Wisconsin property assessment manual issued by the Department of Revenue will lay out the general guidelines for assessors to follow in valuing such property."

in sub

in sub

in sub

*check
w/
Mary
Reaver*

Further suggestions for amending AB 573:

✓ 1. Page 4, line 23: after "associations" insert "if the property is used exclusively for educational purposes". This change would apply the same "used exclusively" requirement to educational associations as to benevolent associations. While *Deutsches Land* dealt only with benevolent associations, its reasoning clearly extends to educational associations. There is no reason to distinguish between them.

✓ 2. Page 4, line 24: after "associations" insert "if the property is used exclusively for church or religious purposes". Again, while *Deutsches Land* dealt only with benevolent associations, its reasoning clearly extends to churches or religious associations. Since the language on page 5, lines 7 through 10 expressly exempts housing for pastors, etc., the proposed change would not have any effect on the existing exemption for such housing.

✓ 4. Page 5, line 16: after "women's clubs" insert "if the property is used exclusively for their purposes". The reasoning is the same.

✓ 5. Page 5, line 17: after "societies" insert "if the property is used exclusively for library purposes". The reasoning is the same. *Add for historical societies?* *this is historical society provision*

✓ 6. Page 5, line 19: after "system" insert "if the property is used exclusively for fraternal purposes". The reasoning is the same.

Unless proposed changes 2 through 6 are made, educational associations, churches, religious associations, women's clubs, historical societies, and fraternal societies would argue that the "used exclusively" requirement does not apply to them.

✓ 7. Page 6, line 6: **Amendment 2** inserts "used exclusively as" after "is". It would be much better to amend the bill by inserting "used exclusively for benevolent purposes as". Otherwise, owners of properties in the nine categories that follow would argue that they do not have to prove the properties are used exclusively for benevolent purposes. *Add* *ok*

? 8. Page 6, line 10: amend to read: "An assisted living facility registered or certified as a residential under s. 50.034." The language of the bill is too broad because it exempts any property registered or certified as a residential care apartment complex under s. 50.034. *not defined.*

○k 9. Page 7, line 6: after "residential" insert "and is used exclusively for benevolent purposes". Under the language of the bill, a benevolent association would argue that any non-residential property it owns is exempt, regardless of how it is used.

10. Page 7, line 9: delete "2003" and insert "2007" or, alternatively, "2006". By making the change in the leasehold income retroactive, the bill would require municipalities that have properly collected taxes for 2003 and subsequent years, under the existing statute, to refund those taxes. Moreover, while the municipalities would be able to charge back a portion of the refund to the other taxing jurisdictions, the municipalities would be unable to charge back any of the substantial interest on the refund. This feature of the bill is therefore very harmful to local governmental units and especially to cities, villages, and towns (which collect the tax).

11. Page 7, line 15: delete "2003" and insert "2007" or, alternatively, "2006". The reasoning is the same.

Kreye, Joseph

From: Matthias, Mary
Sent: Tuesday, December 06, 2005 1:22 PM
To: Kreye, Joseph
Subject: AB 573 sub

I talked to the person about that thing...it's the item in that memo I gave you a copy of that has my handwriting next to it saying "check w/ Mary Reavey". I checked with her and found out what it is and I talked to Denise in Gottlieb's office about it and she is Gottlieb wants it in.

The provision would specify the method of assessment to be used for residential property owned by a benevolent assn or church or religious assn. if comparable sales data isn't available. It would specify that in those cases the "income approach" should be used. I think the sub should direct DOR to spell this out in their assessment manual.

I tried to find something more scientific than the term "income approach" but haven't found it yet. Below is something I found that might be helpful-- part (d) discusses the income approach. We could also check with DOR to see how it is defined or explained in the assessment manual (acc to Mary Reavey it is not available online- they charge for it). Let me know if you'd like me to work more on getting this language for you.

one last thing- Gottlieb wants a memo from me asap describing differences between bill and sub (he wants the memo at the same time he gets the sub basically), so would you be able to send me what you have done so far so that I can get started on the memo.

Do you think you can have the sub done tomorrow?

Thanks!

Guide to the Property Assessment Process for Wisconsin Municipal Officials - Dec 2004

<http://www.dor.state.wi.us/pubs/slf/pb062.pdf>

19. **APPROACHES TO VALUE.** (a) The appraiser shall consider the cost, market, and income approaches in the valuation of all vacant and improved parcels of property by computer-assisted means.
- (b) The appraiser shall collect and analyze all available sales data for the municipality in order to become familiar with prevailing market conditions, market activity, and specific transactions which may be utilized in determining the market value of properties throughout the municipality. Data gathered shall either be noted on the property record cards, or contained within supplements to the records (e.g. copies of real estate transfer returns, leases, computer-generated data sheets, etc.). All data so gathered shall become and remain the property of the municipality.
- (c) Sales analysis shall include sales identified on an appropriate map (section, subdivision, etc.), analysis and verification for time adjustments, neighborhood boundaries and descriptions and other (agricultural) improvements. It may be necessary, as part of the analysis, to field a sale and measure and list the improvements of the properties that have sold using computer-assisted means.
- (d) In valuing income producing properties, where appropriate, the appraiser shall collect information from owners, tenants, realtors, financial institutions, and any other necessary sources, for use in the valuation process. Data to be analyzed shall include economic rents for each type of property, typical vacancy rates, and typical operation expense ratios. All data shall be properly documented and adequate records shall be prepared for each parcel showing the determination of value by the income approach. For improved parcels this shall include a reconstruction of income and expenses, an estimate of remaining economic life, and the capitalization rate applied. Capitalization rates shall be accurately documented by information obtained from the market.

Kreye, Joseph

From: Matthias, Mary
Sent: Tuesday, December 06, 2005 2:17 PM
To: Kreye, Joseph
Subject: ab 573 sub- assessment method

one more thing- I think the new language re: assessment method should go in s. 70.32....

↑
STAYS

0333/1

ASA to

2005 ASSEMBLY BILL 573

in 12-6-05

due Wed
12-7

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

re. you

✓+

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

ASSEMBLY BILL 573

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

ASSEMBLY BILL 573

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

support

and the activities are undertaken in the county where the tax exempt property is located; or, if the leased property is low-income housing, the activities are undertaken in this state;

ASSEMBLY BILL 573

SECTION 1

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

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

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

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

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

and the activities are undertaken in the county where the tax-exempt property is located or, if the leased property is low-income housing, the activities are undertaken in this state

support

if the property is used exclusively for educational purposes

ASSEMBLY BILL 573

SECTION 2

if the property is used exclusively for church or religious purposes; ↑

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 *if the property is used exclusively for the purposes of the club.*

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

if the property is used exclusively for purposes of the historical society.

ASSEMBLY BILL 573

SECTION 2

if the property is used exclusively for fraternal purposes

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

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

70.11 (4) (c) Benevolent associations, churches, or religious associations, if the property is any of the following: *used exclusively for benevolent purposes as*

1. A nursing home licensed under s. 50.03.
2. A community-based residential facility licensed under s. 50.03.
3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
4. A residential care apartment complex registered or certified under s. 50.034.
5. A domestic abuse shelter.
6. A shelter for the homeless, including transitional housing facilities.
7. Housing for low-income persons that is operated in compliance with sections 3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.

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

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

IRS: START HERE
if at least 25 percent of the residents receive nursing services as defined in s. HFS 89.13(24), unlabeled adm code; or personal services, as defined in HFS 89.13(25), unlabeled adm code, pursuant to a written service agreement between the resident and the residential care apartment complex on a daily basis;

ASSEMBLY BILL 573

in which at least 75 percent of the housing units are

1
2
3
4

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

5

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

6

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

7

INSERT 7-7

SECTION 5. Initial applicability.

and is used exclusively for benevolent purposes

8

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

9

10

(2) The renumbering and amendment of section 70.11 (4) of the statutes and the creation of section 70.11 (4) (c) and (d) of the statutes first apply to property tax assessments as of January 1, ~~2007~~ 2011.

11

SECTION 6. Effective date.

12

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

13

14

(2) The renumbering and amendment of section 70.11 (4) of the statutes and the creation of section 70.11 (4) (c) and (d) of the statutes take effect on January 1,

15

16

~~2007~~ 2011

17

18

19

(END)

sec. or; 70.11(4)(e)

70.11(4)(e) owned by an eligible sponsor, as defined in s. 234.01(5), and used to provide housing for persons and families of low and moderate income.

all property

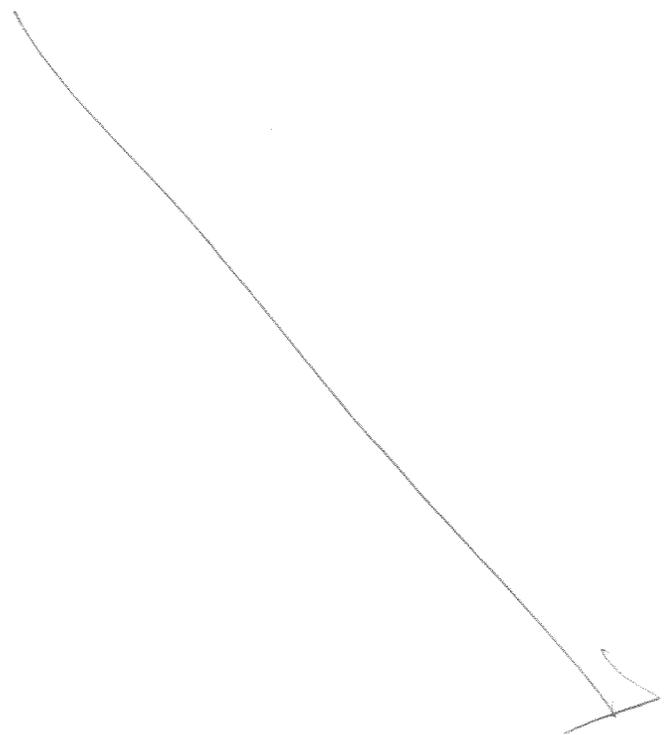
Insert 7-7 1

X

Section #. 70.32 (1) of the statutes is amended to read:

70.32 (1) ~~Real~~ ^{except as provided in sub. (1b), real} property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03 (2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's-length sales of reasonably comparable property; recent arm's-length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

History: 1973 c. 90; 1977 c. 29, 418; 1979 c. 34; 1981 c. 20, 390; 1983 a. 36; 1983 a. 275 s. 15 (8); 1983 a. 410; 1985 a. 54, 153; 1991 a. 39, 316; 1993 a. 337; 1995 a. 27, 201, 227; 1999 a. 9; 2001 a. 109; 2003 a. 33, 230.



Insert 7-7

Sec # w; 70.32(1b).

70.32(1b) ^{with} with regard to determining ^{the value} of residential

property owned by a benevolent association; church; or
 religious association; if ^{information} information on ^{the role} the role of
^{comparable} reasonably comparable property; ^{as described} as described under

sub. (1); ^{assessor} is not available to the taxation district
 assessor;

^{such} the assessor shall determine the value
 of such property ^{by} using the ^{income} income approach

specified in the Wisconsin property assessment
 manual provided under s. 73.03(2a) ©

Insert 7-7)

Section #. 70.44 (1) of the statutes is amended to read:

70.44 (1) Real or personal property omitted from assessment in any of the 2 next previous years, unless previously reassessed for the same year or years, shall be entered once additionally for each previous year of such omission, designating each such additional entry as omitted for the year of omission and affixing a just valuation to each entry for a former year as the same should then have been assessed according to the assessor's best judgment, and taxes shall be apportioned, using the net tax rate as provided in s. 70.43, and collected on the tax roll for such entry. This section shall not apply to manufacturing property assessed by the department of revenue under s. 70.995.

History: 1975 c. 39; 1983 a. 300; 1987 a. 378; 1991 a. 316; 1997 a. 35, 250; 1999 a. 32.

or to property previously omitted from assessment solely on the basis of the property owner's failure to comply with the leased property provisions under s. 70.11 (intro.) during the years for which the property was omitted

<end of insert 7-7>

Kreye, Joseph

From: Matthias, Mary
Sent: Wednesday, December 07, 2005 2:25 PM
To: Kreye, Joseph
Subject: RE: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

yes that is the intent. It seems like maybe the semicolon before the last clause should be changed to a comma or else each clause is freestanding and it isn't clear that the low-income clause applies to churches and religious associations. Also, I think the authorization to use leasehold income state-wide should also apply to any property exempt under s. 70.11(4)(e)- WHEDA properties- since the WHEDA language uses the term "moderate" income people might argue that the rent use authorization to use statewide doesn't apply to those properties.

How about this instead:

Leasing property described in sub. (4) as residential housing does not render it taxable if the property owner uses all of the leasehold income to support the benevolent or educational activities of the owner, or in the case of a church or religious association, to support the activities of the church or association, and the activities are undertaken in the county where the tax-exempt property is located. In addition, leasing property described in sub. (4)(c)7. or sub. (4)(e) as residential property does not render it taxable if the property owner uses all of the leasehold income to support the provision of similar housing anywhere in this state. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property. Property exempted from general property taxes is:

From: Kreye, Joseph
Sent: Wednesday, December 07, 2005 1:54 PM
To: Matthias, Mary
Subject: RE: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

The first incident applies to benevolent associations and the 2nd to churches and religious associations. Is that not consistent with the intent?

Joe

From: Matthias, Mary
Sent: Wednesday, December 07, 2005 1:51 PM
To: Kreye, Joseph
Subject: FW: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

on page 2 I think the provision re: low-income housing appears twice.

From: Emery, Lynn
Sent: Wednesday, December 07, 2005 1:42 PM
To: Matthias, Mary
Subject: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

Draft Requester: Mark Gottlieb

The attached proposal has been jacketed for introduction.

<< File: LRB s0333_1 >>

Kreye, Joseph

From: Matthias, Mary
Sent: Wednesday, December 07, 2005 3:10 PM
To: Kreye, Joseph
Subject: RE: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

On page 4. line 13, add "if the property is used exclusively for library purposes"

and I suppose on page 6, line 11, we better add "exclusively" after "used".

other than that it looks great. thanks!

From: Kreye, Joseph
Sent: Wednesday, December 07, 2005 2:44 PM
To: Matthias, Mary
Subject: RE: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

Makes sense to me. I can make that change. I can have Gottlieb's office return the stripes and I can redraft. How's the rest of the sub look?

Joe

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

From: Matthias, Mary
Sent: Wednesday, December 07, 2005 2:25 PM
To: Kreye, Joseph
Subject: RE: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

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How about this instead:

Leasing property described in sub. (4) as residential housing does not render it taxable if the property owner uses all of the leasehold income to support the benevolent or educational activities of the owner, or in the case of a church or religious association, to support the activities of the church or association, and the activities are undertaken in the county where the tax-exempt property is located. In addition, leasing property described in sub. (4)(c)7. or sub. (4)(e) as residential property does not render it taxable if the property owner uses all of the leasehold income to support the provision of similar housing anywhere in this state. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property. Property exempted from general property taxes is:

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Draft Requester: Mark Gottlieb

The attached proposal has been jacketed for introduction.

<< File: LRB s0333_1 >>

Kreye, Joseph

From: Matthias, Mary
Sent: Wednesday, December 07, 2005 3:34 PM
To: Kreye, Joseph
Subject: FW: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

Joe- here is one other thing I saw- sorry I didn't catch this before sending that language over to you. I am waiting to hear what Gottlieb's office thinks.

From: Matthias, Mary
Sent: Wednesday, December 07, 2005 3:26 PM
To: Solie, Denise
Subject: RE: LRB 05s0333 Topic: Property tax exemption for certain property; use of income from certain tax-exempt property

I am concerned that the language on pg 3, line 15-16 (requested by Witynski) is problematic. it requires property owned by an educational institution or association to be used "exclusively for educational purposes". I bet there is prop. owned by those entities that isn't actually used to deliver education. Administrative offices - power plant and maintenance buildings... I wonder if it includes WEAC propoerty- that is an educational association, yet they don't provide education on their property.

Maybe the provision should be changed to "used exclusively for the purposes of the educational institution or association". This would be in line with the wording used for churches, womens clubs (we gotta start one of those!) and historical societies. I wonder if "fraternal purposes" should also be changed to "purposes of the fraternal society"....



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0333/1
JK:lmk/jf

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sax
RM mit R

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2005 ASSEMBLY BILL 573

in 12-7-05

NOW

Rden

1 AN ACT *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.), 70.32 (1)
2 and 70.44 (1); and *to create* 70.11 (4) (c), 70.11 (4) (d), 70.11 (4) (e) and 70.32
3 (1b) of the statutes; **relating to:** revision and elimination of the exemption from
4 the property tax for certain property and the use of income from certain
5 tax-exempt leased property.

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

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

7 **70.11 Property exempted from taxation.** (intro.) The property described
8 in this section is exempted from general property taxes if the property is exempt
9 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and
10 its use, occupancy or ownership did not change in a way that makes it taxable; if the
11 property was taxable for the previous year, the use, occupancy or ownership of the
12 property changed in a way that makes it exempt and its owner, on or before March 1,

1 files with the assessor of the taxation district where the property is located a form
 2 that the department of revenue prescribes or if the property did not exist in the
 3 previous year and its owner, on or before March 1, files with the assessor of the
 4 taxation district where the property is located a form that the department of revenue
 5 prescribes. Leasing a part of the property described in this section does not render
 6 it taxable if, except for property described in sub. (4), the lessor uses all of the
 7 leasehold income for maintenance of the leased property or construction debt
 8 retirement of the leased property, or both, and, except for residential housing, if the
 9 lessee would be exempt from taxation under this chapter if it owned the property.
 10 Leasing property described in sub. (4) as residential housing does not render it
 11 taxable if the property owner uses all of the leasehold income to support the

12 benevolent or educational activities of the owner and the activities are undertaken
 13 in the county where the tax-exempt property is located; or, if the leased property is
 14 low-income housing, the activities are undertaken in this state; or, in the case of a
 15 church or religious association, to support the activities of the church or association
 16 and the activities are undertaken in the county where the tax-exempt property is
 17 located; or, if the leased property is low-income housing, the activities are

18 undertaken in this state. Any lessor who claims that leased property is exempt from
 19 taxation under this chapter shall, upon request by the tax assessor, provide records
 20 relating to the lessor's use of the income from the leased property. Property exempted
 21 from general property taxes is:

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

24 70.11 (4) (intro.) Property owned and used exclusively by educational any of the
 25 entities described in this subsection while such property is used not for profit.

INSERT
2-18

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

14 (a) Educational institutions offering regular courses 6 months in the year; or
15 by churches and educational associations, if the property is used exclusively for
16 educational purposes. *the of the educational institution or association*

17 (b) Churches or religious, educational or benevolent associations, including
18 benevolent nursing homes and retirement homes for the aged but not including an
19 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers
20 a health maintenance organization as defined in s. 609.01 (2) or a limited service
21 health organization as defined in s. 609.01 (3) or an organization that is issued a
22 certificate of authority under ch. 618 and that offers a health maintenance
23 organization or a limited service health organization and not including property
24 owned by any nonstock, nonprofit corporation which services guaranteed student
25 loans for others or on its own account, and also if the property is used exclusively for

1 church or religious purposes, including property owned and used for housing for
2 pastors and their ordained assistants, members of religious orders and communities,
3 and ordained teachers, whether or not contiguous to and a part of other property
4 owned and used by such associations or churches; or by women's, but not other types
5 of residential housing except for the property described in par. (c). Property owned
6 by churches or religious associations necessary for location and convenience of
7 buildings, used for educational purposes and not for profit, shall not be subject to the
8 10-acre limitation under this subsection but shall be subject to a 30-acre limitation.

9 (e) Women's clubs; or by domestic, if the property is used exclusively for the
10 purposes of the club.

11 (f) Domestic incorporated historical societies; or by domestic, if the property
12 is used exclusively for the purposes of the historical society.

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

14 (h) Fraternal societies operating under the lodge system (except university,
15 college and high school fraternities and sororities), but not exceeding 10 acres of land
16 necessary for location and convenience of buildings while such property is not used
17 for profit. Property owned by churches or religious associations necessary for
18 location and convenience of buildings, used for educational purposes and not for
19 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre
20 limitation. Property that is exempt from taxation under this subsection and is leased
21 remains exempt from taxation only if, in addition to the requirements specified in the
22 introductory phrase of this section, the lessee does not discriminate on the basis of
23 race, except university, college, and high school fraternities and sororities, if the
24 property is used exclusively for fraternal purposes.

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

if the property is used exclusively for the library purposes of the library association

1 70.11 (4) (c) Benevolent associations, churches, or religious associations, if the
2 property is used exclusively for benevolent purposes as any of the following:

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

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

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

6 4. A residential care apartment complex registered or certified under s. 50.034
7 if at least 25 percent of the residents receive, on a daily basis, nursing services, as
8 defined in s. HFS 89.13 (24), Wis. Adm. Code, or personal services, as defined in s.
9 HFS 89.13 (25), Wis. Adm. Code, pursuant to a written service agreement between
10 the resident and the residential care apartment complex.

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 purpose of which is to provide alcohol or other drug
24 abuse treatment or services or housing for persons with, or who are recovering from,
25 alcohol or other drug abuse problems.

1 9. Residential housing in which at least 75 percent of the housing units are
2 occupied by one or more persons with permanent disabilities, for whom evidence is
3 available that demonstrates that these persons meet the medical definition of
4 permanent disability used to determine eligibility for programs administered by the
5 federal social security administration.

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

7 70.11 (4) (d) Benevolent associations, if the property is not residential and is
8 used exclusively for benevolent purposes.

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

10 *exclusively* 70.11 (4) (e) All property owned by an eligible sponsor, as defined in s. 234.01
11 (5), and used to provide housing for persons and families of low and moderate income.

12 **SECTION 6.** 70.32 (1) of the statutes is amended to read:

13 70.32 (1) ~~Real~~ Except as provided in sub. (1b), real property shall be valued by
14 the assessor in the manner specified in the Wisconsin property assessment manual
15 provided under s. 73.03 (2a) from actual view or from the best information that the
16 assessor can practicably obtain, at the full value which could ordinarily be obtained
17 therefor at private sale. In determining the value, the assessor shall consider recent
18 arm's-length sales of the property to be assessed if according to professionally
19 acceptable appraisal practices those sales conform to recent arm's-length sales of
20 reasonably comparable property; recent arm's-length sales of reasonably
21 comparable property; and all factors that, according to professionally acceptable
22 appraisal practices, affect the value of the property to be assessed.

23 **SECTION 7.** 70.32 (1b) of the statutes is created to read:

24 70.32 (1b) With regard to determining the value of residential property owned
25 by a benevolent association, church, or religious association, if information on the

1 sale of reasonably comparable property, as described under sub. (1), is not available
2 to the taxation district assessor, the assessor shall determine the value of such
3 property by using the income approach specified in the Wisconsin property
4 assessment manual provided under s. 73.03 (2a).

5 **SECTION 8.** 70.44 (1) of the statutes is amended to read:

6 70.44 (1) Real or personal property omitted from assessment in any of the 2
7 next previous years, unless previously reassessed for the same year or years, shall
8 be entered once additionally for each previous year of such omission, designating
9 each such additional entry as omitted for the year of omission and affixing a just
10 valuation to each entry for a former year as the same should then have been assessed
11 according to the assessor's best judgment, and taxes shall be apportioned, using the
12 net tax rate as provided in s. 70.43, and collected on the tax roll for such entry. This
13 section shall not apply to manufacturing property assessed by the department of
14 revenue under s. 70.995 or to property previously omitted from assessment solely on
15 the basis of the property owner's failure to comply with the leased property
16 provisions under s. 70.11 (intro.) during the years for which the property was
17 omitted.

18 **SECTION 9. Initial applicability.**

19 (1) The renumbering and amendment of section 70.11 (4) of the statutes and
20 the creation of section 70.11 (4) (c) ^{and (i)} and (d) of the statutes first apply to property tax
21 assessments as of January 1, 2011.

22 **SECTION 10. Effective date.**

1 (1) The renumbering and amendment of section 70.11 (4) of the statutes and
2 the creation of section 70.11 (4) (c) ~~and~~ (d) ^{3 and (i)} of the statutes take effect on January 1,
3 2011.

4 (END)

S 393/2

Insert 2-18

NOT

In addition, leasing property described in sub. (4)

(c) 7. or (j) as residential housing does not render

it taxable if the property owner uses all of the

leasehold income to support the provision of

similar housing anywhere in this state.