

2019 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB903)

For: **Kevin Petersen (608) 266-3794** Drafter: **elunder**
 By: **Jim** Secondary Drafters:
 Date: **2/14/2020** May Contact:
 Same as LRB: **s0289**

Submit via email: **YES**
 Requester's email: **Rep.Petersen@legis.wisconsin.gov**
 Carbon copy (CC) to: **erika.lunder@legis.wisconsin.gov**
joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Information submission for commercial property tax assessments

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	elunder 2/14/2020	kmochal 2/14/2020			
/P1	elunder 2/17/2020	wjackson 2/17/2020	lparisi 2/14/2020		
/1			mbarman 2/17/2020	mbarman 2/17/2020	

FE Sent For: **<END>**

Lunder, Erika

From: Bowers, Jim
Sent: Friday, February 14, 2020 10:51 AM
To: Lunder, Erika
Subject: Substitute Amendment for AB 903 and SB 97
Attachments: Sub Amendment SB 97.pdf

We need this drafted as a substitute amendment to AB 903 and SB 97. Jacket for introduction but do not introduce. I will send in.

*Jim Bowers
Legislative Assistant
Office of
Representative Kevin Petersen
1-608-237-9140 Office*

LRB noticed extra "the" on p. 5 line 5

Substitute Amendment to _____ Senate Bill 97

SECTION 1. 70.325 of the statutes is created to read:

70.325 Requirement to provide information for commercial property assessments.

(1) To determine the value of property classified under s. 70.32 (2) (a) 2. for which a person should be assessed, an assessor may request, no later than January 15 of the current assessment year, the person to submit evidence of the property's fair market value. An assessor shall make a request by providing the person with a form prescribed by the department of revenue that the person shall complete. The form prescribed by the department shall list documents that evidence a commercial property's fair market value and shall require the person to declare whether a document exists for the property to be assessed and, if so, to attach a copy to the form. The assessor may request any of the listed documents that were executed, prepared, or submitted within the current assessment year or the 3 years prior to the current assessment year. The documents listed on the form shall be limited to:

(a) All of the following relating to the rental of the property:

1. Itemized operating statements.
2. Vacancy losses.
3. Rent rolls.
4. Leases.
5. Lease abstracts.
6. Federal tax form 8825.

(b) All of the following relating to a sale or potential sale of the property:

1. Purchase agreements.
2. Listing contracts.
3. Offers to purchase.

4. Counteroffers to purchase.
5. Condition reports.
6. Option to purchase.
7. Rights of first refusal.
8. Letters of intent.

(c) All of the following provided to a purchaser of the property no later than the sale's closing date:

1. Closing statements.
2. Rent rolls.
3. Leases.
4. Operating statements.
5. Stacking plans.
6. Title commitments.
7. Documentation of tenant delinquencies.
8. Service contracts.
9. Warranties.
10. Utility bills.
11. Environmental reports.

(d) Documents showing the cost of completed construction or completed remodeling.

(e) Appraisals and feasibility studies.

(f) Documents provided to the federal securities and exchange commission in which the property is listed or discussed.

(g) Fixed asset schedules on which the property is listed.

(h) Documents showing asset value of the property in the real estate portfolio of a real estate investment trust.

(2) The form and documents provided under sub. (1) shall be the confidential records of the assessor's office and shall remain under seal before the board of review and on appeal. The municipality or county shall provide by ordinance for the confidentiality of the information contained on the form and documents and shall provide exceptions for persons using the information in the discharge of the duties of their office or duties imposed by law or order of a court. The form and documents provided under sub. (1) are not subject to the right of inspection and copying under s. 19.35 (1).

(3) A person to whom a request under sub. (1) is made is not obligated to produce a document that is not that person's in the possession.

(4) No document or information provided under this section is controlling on the assessor in the assessment of the property. Nothing in this section limits the authority of the assessor to seek additional evidence from any source as to the full value of the property, but the failure of any person to respond any such request shall not limit the ability of that person to challenge an assessment in any venue. There is no presumption that any information or document described or collected under this section is relevant to the assessment of the property.

(5) Information and documents produced under this section are not subject to the right of inspection and copying under s. 19.35 (1) and if offered in a proceeding before a board of assessors, board of review, department of revenue, tax appeals commission or circuit court shall be kept under seal unless a court makes a determination under sub. (6) to make the information or documents available for inspection or copying, or if the person providing the information or documents consents to unseal the information and documents. Documents or

information under seal pursuant to this subsection loses its protection if the person who provided the information or document offers it as an exhibit in any administrative or court proceeding without filing it under seal. A person objecting to an assessment of a property shall have access to any information and documents collected by or on behalf of the assessor to set or defend the assessment of that property, including documents received under this section.

(6) In an action under s. 74.37 or by petition to the circuit court, an assessor may seek relief from the restrictions under subs. (5). A person objecting to an assessment of a property or in an action under s. 74.37 seeking a refund of taxes levied against a property, may petition the circuit court or move the court presiding over the s. 74.37 action to gain access to information and documents collected under this section that were used to set or defend the assessment of the property or are otherwise relevant to the assessment of the property. The circuit court considering a petition or motion filed under this subsection shall balance the need to keep the information and documents confidential with the ability of the assessor to defend the assessment and the ability of the objector or plaintiff in an action under s. 74.37 to challenge the assessment or obtain a refund. In any petition or motion seeking information or documents collected under this section, the person from whom the information or documents was collected shall be provided with notice of any petition or motion under this subsection and afforded a reasonable opportunity to participate in any proceeding.

(7) A board of review or a court may not consider evidence supporting the assessment of a property or defending the presumption under s. 70.49(2) that consists of or is based upon information and documents collected under this section and the person challenging the assessment of the property or seeking a refund for taxes levied against the property petitioned

or moved the court for access to the information and documents under sub. (6) and was denied access by the court.

SECTION 2. 70.47 (2m) of the statutes is amended to read:

70.47 (2m) OPEN MEETINGS. ~~All~~ Except as provided in s. 70.325 (5), all meetings of the board of review shall be publicly held and open to all citizens at all times. No and no formal action of any kind shall may be introduced, deliberated upon, or adopted at any closed session or meeting of a board of review.

SECTION 3. 70.47 (7) (af) of the statutes is amended to read:

70.47 (7) (af) No person upon whom a timely request under s. 70.325 (1) was made may offer a document in a valuation hearing appear before the board of review, ~~testify to the board by telephone or object to a valuation;~~ if that document was in the person's possession at the time of the request under s. 70.325 (1), that document was the subject of the request and the person failed to provide the assessor with the document no later than March 31. valuation was made by the assessor or the objector using the income method; unless no later than 7 days before the first meeting of the board of review the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph is not subject to the right of inspection and copying under s. 19.35 (1) unless a court determines before the first meeting of the board of review that the information is inaccurate.

SECTION 4. 70.47 (8) (d) of the statutes is amended to read:

(d) It may and upon request of the assessor or the objector shall compel the attendance of witnesses, except objectors who may testify by telephone, and the production of ~~all books, inventories, appraisals, documents and other data which may throw light upon the value of~~ property documents described in s. 70.325(1).



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 903**

1 AN ACT ^{Generate catalog} ...; relating to: requiring property owners to submit specified
2 information for commercial property tax assessments.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be included in a subsequent draft.

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

INS 1-3 →

3 (2) (a) The documents and information received by an assessor under sub. (1)
4 shall be the confidential records of the assessor's office and are not subject to the right
5 of inspection and copying under s. 19.35 (1). The municipality or county shall provide
6 by ordinance for the confidentiality of the documents and information and shall
7 provide exceptions for persons using the information in the discharge of the duties
8 of their office or duties imposed by law or order of a court.

documents or

1 (b) Any document or information received by an assessor under sub. (1) shall
2 remain under seal before the board of assessors, board of review, department of
3 revenue, tax appeals commission, and court unless a court grants a request under
4 par. (c) or the person who provided the documents and information to the assessor
5 consents to the unsealing.

6 (c) In an action under s. 74.37 or by petition to the circuit court, an assessor may
7 request the court to unseal any document or information received by an assessor
8 under sub. (1). A person objecting to an assessment under s. 70.47(7) or seeking to
9 recover an amount under s. 74.37 may request a court to gain access to any document
10 or information received by an assessor under sub. (1) that was used to assess, or
11 defend the assessment of, the person's property or is otherwise relevant to the
12 property's assessment. The person who provided the document or information to the
13 assessor shall be provided notice of any motion or petition filed under this paragraph
14 and a reasonable opportunity to participate in any proceeding in which the motion
15 or petition is considered. In determining whether to grant a request under this
16 paragraph, the court shall balance the need to keep the document or information
17 confidential with the ability of the assessor to defend, and the person to challenge,
18 the assessment.

19 (3) A person to whom a request is made under sub. (1) is not obligated to
20 produce a document that is not in that person's possession.

21 (4) No document or information provided under this section is controlling on
22 the assessor in the assessment of the property. Nothing in this section limits the
23 authority of the assessor to seek additional evidence from any source as to the full
24 value of the property, but the failure of any person to respond to a request may not
25 limit the ability of the person to challenge an assessment in any venue. Nothing in

1 this section creates a presumption that any information or document described or
2 collected under this section is relevant to the assessment of the property.

3 ~~SECTION 70.47~~ (2m) of the statutes is amended to read: ✓

4 **70.47 (2m) OPEN MEETINGS.** All Except when the board of review determines
5 it necessary to meet in closed session to maintain the confidentiality of information
6 required to remain under seal under s. 70.325 (2), all meetings of the board of review
7 shall be publicly held and open to all citizens at all times. ~~No and no~~ formal action
8 of any kind shall may be introduced, deliberated upon, or adopted at any closed
9 session or meeting of a board of review.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161; 2013 a. 228; 2017 a. 68, 358.

Judicial Council Note, 1981: References in subs. (13) and (16) (a) to "writs" of certiorari have been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereon. [Bill 613-A]

10 ~~SECTION 70.47~~ (7) (af) of the statutes is amended to read:

11 **70.47 (7) (af)** No person upon whom a timely request was made under s. 70.325
12 (1) may appear offer a document in a valuation hearing before the board of review,
13 testify to the board by telephone or object to a valuation; if that valuation was made
14 by the assessor or the objector using the income method; unless no later than 7 days
15 before the first meeting of the board of review the person supplies to the assessor all
16 of the information about income and expenses, as specified in the manual under s.
17 73.03 (2a), that the assessor requests. The municipality or county shall provide by
18 ordinance for the confidentiality of information about income and expenses that is
19 provided to the assessor under this paragraph and shall provide exceptions for
20 persons using the information in the discharge of duties imposed by law or of the
21 duties of their office or by order of a court. The information that is provided under
22 this paragraph is not subject to the right of inspection and copying under s. 19.35 (1)
23 unless a court determines before the first meeting of the board of review that the

1 information is inaccurate if the document was in the person's possession at the time
 2 the request was made, the document was the subject of the request, and the person
 3 failed to provide the assessor with the document no later than March 31 of the year
 4 the request was made.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161; 2013 a. 228; 2017 a. 68, 358.

Judicial Council Note, 1981: References in subs. (13) and (16) (a) to "writs" of certiorari have been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613-A]

5 ~~SECTION 70.47~~ (8) (d) of the statutes is amended to read: ✓

6 70.47 (8) (d) It may and upon request of the assessor or the objector shall compel
 7 the attendance of witnesses, except objectors who may testify by telephone, and the
 8 production of ~~all books, inventories, appraisals, documents and other data which~~
 9 ~~may throw light upon the value of property~~ documents described in s. 70.325✓(1).

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161; 2013 a. 228; 2017 a. 68, 358.

Judicial Council Note, 1981: References in subs. (13) and (16) (a) to "writs" of certiorari have been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613-A]

10 ~~SECTION 70.47~~ (9) (a) of the statutes is amended to read: ✓

11 70.47 (9) (a) From the evidence before it the board shall determine whether the
 12 assessor's assessment is correct. If a court rejects a request made under s. 70.325✓(2)
 13 (c) by the person objecting to the assessment, the board of review may not consider
 14 evidence brought by an assessor that consists of, or is based on, the document or
 15 information that was the subject of the request. If the assessment is too high or too
 16 low, the board shall raise or lower the assessment accordingly and shall state on the
 17 record the correct assessment and that that assessment is reasonable in light of all
 18 of the relevant evidence that the board received. A majority of the members of the
 19 board present at the meeting to make the determination shall constitute a quorum
 20 for purposes of making such determination, and a majority vote of the quorum shall

1 constitute the determination. In the event there is a tie vote, the assessment shall
2 be sustained.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161; 2013 a. 228; 2017 a. 68, 358.

Judicial Council Note, 1981: References in subs. (13) and (16) (a) to "writs" of certiorari have been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613-A]

3

~~SECTION 74.37~~ (6) of the statutes is created to read:

4 74.37 (6) LIMITATION ON EVIDENCE. If a court rejects a request made under s.
5 70.325 (2) (c) by the person seeking to recover an amount under this section, the
6 court, in determining whether the assessment of property was excessive, may not
7 consider evidence brought by an assessor that consists of, or is based on, the
8 document or information that was the subject of the request.

9

(END)

ASSEMBLY BILL 903

list of documents that were executed, prepared, or submitted within the current assessment year or the three years prior to the current assessment year. The bill generally prohibits a person who has received such a request from objecting to a valuation before the board of review if the person did not provide the requested information by March 31 of the current assessment year.

If the person challenging an assessment does not possess the requested documents, the bill requires the person to make a good faith effort to obtain them. The bill authorizes a board of review to dismiss a person's objection if the person does not demonstrate such good faith effort, and it provides for limited judicial review of such dismissals.

The bill requires the Department of Revenue to prescribe a form listing the documents enumerated in the bill. Under the bill, the form and documents are confidential records of an assessor's office and must remain under seal before the board of review and on appeal. Finally, the bill provides that documents provided under the bill are not controlling and specifies that the bill does not limit an assessor's authority to seek additional evidence regarding a property's value.

WS 1-3

SECTION 1. 70.325 of the statutes is created to read:

only the documents in pars. (a) to (h)

70.325 Requirement to provide information for commercial property

assessments. (1) To determine the value of property classified under s. 70.32 (2)

(a) 2. for which a person should be assessed, an assessor may request, no later than January 15 of the current assessment year, the person to submit evidence of the property's fair market value. An assessor shall make a request by providing the person with a form prescribed by the department of revenue that the person shall complete. The form prescribed by the department shall list documents that evidence

each

a commercial property's fair market value and shall require the person to declare whether a document exists for the property to be assessed and, if so, to attach a copy

to the form. The assessor may request any of the listed documents that were executed, prepared, or submitted within the current assessment year or the 3 years prior to the current assessment year. The documents listed on the form shall include:

shall be

only

(a) All of the following relating to the rental of the property:

1. Itemized operating statements.
2. Vacancy losses.
3. Rent rolls.
4. Leases.

only the following

ASSEMBLY BILL 903

- 1 5. Lease abstracts.
- 2 6. Federal tax form 8825.
- 3 (b) All of the following relating to a sale or potential sale of the property:
- 4 1. Purchase agreements.
- 5 2. Listing contracts.
- 6 3. Offers to purchase.
- 7 4. Counteroffers to purchase.
- 8 5. Condition reports.
- 9 6. Option to purchase.
- 10 7. Rights of first refusal.
- 11 8. Letters of intent.
- 12 (c) All of the following provided to a purchaser of the property no later than the
- 13 sale's closing date:
- 14 1. Closing statements.
- 15 2. Rent rolls.
- 16 3. Leases.
- 17 4. Operating statements.
- 18 5. Stacking plans.
- 19 6. Title commitments.
- 20 7. Documentation of tenant delinquencies.
- 21 8. Service contracts.
- 22 9. Warranties.
- 23 10. Utility bills.
- 24 11. Environmental reports.

ASSEMBLY BILL 903**SECTION 1**

1 (d) Documents showing the cost of completed construction or completed
2 remodeling.

3 (e) Appraisals and feasibility studies.

4 (f) Documents provided to the federal securities and exchange commission in
5 which the property is listed or discussed.

6 (g) Fixed asset schedules on which the property is listed.

7 (h) Documents showing asset value of the property in the real estate portfolio
8 of a real estate investment trust.

END
INS 1-3
9 **(2)** The form and documents provided under sub. (1) shall be the confidential
10 records of the assessor's office and shall remain under seal before the board of review
11 and on appeal. The municipality or county shall provide by ordinance for the
12 confidentiality of the information contained on the form and documents and shall
13 provide exceptions for persons using the information in the discharge of the duties
14 of their office or duties imposed by law or order of a court. The form and documents
15 provided under sub. (1) are not subject to the right of inspection and copying under
16 s. 19.35 (1).

17 **(3)** If any documents requested under sub. (1) are not in the possession of a
18 person challenging an assessment, the person shall make a good faith effort to obtain
19 the documents.

20 **(4)** No document or information provided under this section is controlling on
21 the assessor in the assessment of the property. Nothing in this section limits the
22 authority of the assessor to seek additional evidence as to the full value of the
23 property.

24 **SECTION 2.** 70.47 (2m) of the statutes is amended to read:



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0283/P1
EKL:klm

1
TWJ

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 903**

1/17/17

1 AN ACT *to amend* 70.47 (2m), 70.47 (7) (af), 70.47 (8) (d) and 70.47 (9) (a); and
2 *to create* 70.325 and 74.37 (6) of the statutes; **relating to:** requiring property
3 owners to submit specified information for commercial property tax
4 assessments.

6 *Analysis by the Legislative Reference Bureau*
INS-A → (This is a preliminary draft. An analysis will be included in a subsequent draft.)

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

5 SECTION 1. 70.325 of the statutes is created to read:
6 **70.325 Requirement to provide information for commercial property**
7 **assessments.** (1) To determine the value of property classified under s. 70.32 (2)

1 (a) 2. for which a person should be assessed, an assessor may request, no later than
2 January 15 of the current assessment year, the person to submit evidence of the
3 property's fair market value. An assessor shall make a request by providing the
4 person with a form prescribed by the department of revenue that the person shall
5 complete. The form prescribed by the department shall list only the documents in
6 pars. (a) to (h) and shall require the person to declare whether each document exists
7 for the property to be assessed and, if so, to attach a copy to the form. The assessor
8 may request any of the listed documents that were executed, prepared, or submitted
9 within the current assessment year or the 3 years prior to the current assessment
10 year. Only the following documents shall be listed on the form:

11 (a) All of the following relating to the rental of the property:

- 12 1. Itemized operating statements.
- 13 2. Vacancy losses.
- 14 3. Rent rolls.
- 15 4. Leases.
- 16 5. Lease abstracts.
- 17 6. Federal tax form 8825.

18 (b) All of the following relating to a sale or potential sale of the property:

- 19 1. Purchase agreements.
- 20 2. Listing contracts.
- 21 3. Offers to purchase.
- 22 4. Counteroffers to purchase.
- 23 5. Condition reports.
- 24 6. Option to purchase.
- 25 7. Rights of first refusal.

1 8. Letters of intent.

2 (c) All of the following provided to a purchaser of the property no later than the
3 sale's closing date:

4 1. Closing statements.

5 2. Rent rolls.

6 3. Leases.

7 4. Operating statements.

8 5. Stacking plans.

9 6. Title commitments.

10 7. Documentation of tenant delinquencies.

11 8. Service contracts.

12 9. Warranties.

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14 11. Environmental reports.

15 (d) Documents showing the cost of completed construction or completed
16 remodeling.

17 (e) Appraisals and feasibility studies.

18 (f) Documents provided to the federal securities and exchange commission in
19 which the property is listed or discussed.

20 (g) Fixed asset schedules on which the property is listed.

21 (h) Documents showing asset value of the property in the real estate portfolio
22 of a real estate investment trust.

23 **(2)** (a) The documents and information received by an assessor under sub. (1)
24 shall be the confidential records of the assessor's office and are not subject to the right
25 of inspection and copying under s. 19.35 (1). The municipality or county shall provide

1 by ordinance for the confidentiality of the documents and information and shall
2 provide exceptions for persons using the documents or information in the discharge
3 of the duties of their office or duties imposed by law or order of a court.

4 (b) Any document or information received by an assessor under sub. (1) shall
5 remain under seal before the board of assessors, board of review, department of
6 revenue, tax appeals commission, and court unless a court grants a request under
7 par. (c) or the person who provided the document or information to the assessor
8 consents to the unsealing.

9 (c) In an action under s. 74.37 or by petition to the circuit court, an assessor may
10 request the court to unseal any document or information received by an assessor
11 under sub. (1). A person objecting to an assessment under s. 70.47 (7) or seeking to
12 recover an amount under s. 74.37 may request a court to gain access to any document
13 or information received by an assessor under sub. (1) that was used to assess, or
14 defend the assessment of, the person's property or is otherwise relevant to the
15 property's assessment. The person who provided the document or information to the
16 assessor shall be provided notice of any motion or petition filed under this paragraph
17 and a reasonable opportunity to participate in any proceeding in which the motion
18 or petition is considered. In determining whether to grant a request under this
19 paragraph, the court shall balance the need to keep the document or information
20 confidential with the ability of the assessor to defend, and the person to challenge,
21 the assessment.

22 (3) A person to whom a request is made under sub. (1) is not obligated to
23 produce a document that is not in that person's possession.

24 (4) No document or information provided under this section is controlling on
25 the assessor in the assessment of the property. Nothing in this section limits the

1 authority of the assessor to seek additional evidence from any source as to the full
2 value of the property, but the failure of any person to respond to a request may not
3 limit the ability of the person to challenge an assessment in any venue. Nothing in
4 this section creates a presumption that any information or document described or
5 collected under this section is relevant to the assessment of the property.

6 **SECTION 2.** 70.47 (2m) of the statutes is amended to read:

7 **70.47 (2m) OPEN MEETINGS.** All Except when the board of review determines
8 it necessary to meet in closed session to maintain the confidentiality of information
9 required to remain under seal under s. 70.325 (2), all meetings of the board of review
10 shall be publicly held and open to all citizens at all times. No and no formal action
11 of any kind shall may be introduced, deliberated upon, or adopted at any closed
12 session or meeting of a board of review.

13 **SECTION 3.** 70.47 (7) (af) of the statutes is amended to read:

14 **70.47 (7) (af)** No person upon whom a timely request was made under s. 70.325
15 (1) may appear offer a document in a valuation hearing before the board of review,
16 testify to the board by telephone or object to a valuation; if that valuation was made
17 by the assessor or the objector using the income method; unless no later than 7 days
18 before the first meeting of the board of review the person supplies to the assessor all
19 of the information about income and expenses, as specified in the manual under s.
20 73.03 (2a), that the assessor requests. The municipality or county shall provide by
21 ordinance for the confidentiality of information about income and expenses that is
22 provided to the assessor under this paragraph and shall provide exceptions for
23 persons using the information in the discharge of duties imposed by law or of the
24 duties of their office or by order of a court. The information that is provided under
25 this paragraph is not subject to the right of inspection and copying under s. 19.35 (1)

1 ~~unless a court determines before the first meeting of the board of review that the~~
2 ~~information is inaccurate~~ if the document was in the person's possession at the time
3 the request was made, the document was the subject of the request, and the person
4 failed to provide the assessor with the document no later than March 31 of the year
5 the request was made.

6 **SECTION 4.** 70.47 (8) (d) of the statutes is amended to read:

7 70.47 (8) (d) It may and upon request of the assessor or the objector shall compel
8 the attendance of witnesses, except objectors who may testify by telephone, and the
9 production of ~~all books, inventories, appraisals, documents and other data which~~
10 ~~may throw light upon the value of property~~ documents described in s. 70.325 (1).

11 **SECTION 5.** 70.47 (9) (a) of the statutes is amended to read:

12 70.47 (9) (a) From the evidence before it the board shall determine whether the
13 assessor's assessment is correct. If a court rejects a request made under s. 70.325 (2)
14 (c) by the person objecting to the assessment, the board of review may not consider
15 evidence brought by an assessor that consists of, or is based on, the document or
16 information that was the subject of the request. If the assessment is too high or too
17 low, the board shall raise or lower the assessment accordingly and shall state on the
18 record the correct assessment and that that assessment is reasonable in light of all
19 of the relevant evidence that the board received. A majority of the members of the
20 board present at the meeting to make the determination shall constitute a quorum
21 for purposes of making such determination, and a majority vote of the quorum shall
22 constitute the determination. In the event there is a tie vote, the assessment shall
23 be sustained.

24 **SECTION 6.** 74.37 (6) of the statutes is created to read:

1 74.37 (6) LIMITATION ON EVIDENCE. If a court rejects a request made under s.
2 70.325 (2) (c) by the person seeking to recover an amount under this section, the
3 court, in determining whether the assessment of property was excessive, may not
4 consider evidence brought by an assessor that consists of, or is based on, the
5 document or information that was the subject of the request.

6

(END)

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0283/P1ins
EKL:klm

1 INS-A

This bill authorizes a property tax assessor, when assessing commercial property, to request a person to provide specified documents related to the property's fair market value.

Under the bill, the assessor may request a specific list of documents from the person no later than January 15 of the assessment year. The assessor must make the request using a form prescribed by the Department of Revenue that contains the exclusive list of documents that may be requested. The assessor may request any of the listed documents that were executed, prepared, or submitted within the current year or three prior years. The person must complete the form and attach the requested documents no later than March 31, although the person is not obligated to produce a document that is not in the person's possession. If the person fails to timely provide a requested document that is in the person's possession at the time the request is made, the person may not offer the document in a valuation hearing. *When*

The bill specifies that no document or information provided via the form is controlling on the assessor in the assessment of property and that nothing in the bill limits the assessor's authority to seek additional valuation evidence from any source or creates a presumption that any of the documents or information are relevant to the assessment of property. The bill also provides that the failure of a person to respond to a request may not limit the person's ability to challenge an assessment in any venue.

the Under the bill, the documents and information provided via the form are confidential and must remain under seal before a board of assessors, a board of review, DOR, Tax Appeals Commission, and a court unless the person who provided the document or information consents to the unsealing or a court grants a request to unseal. Under the bill, an assessor may request the court to unseal any of the documents or information in an excessive property tax assessment action or by petition to the circuit court. Also under the bill, a person objecting to an assessment may request a court to gain access to the documents or information used to assess, or defend the assessment of, the person's property or that are otherwise relevant to the property's assessment. The person who provided the document or information to the assessor must be given notice of a request to unseal and a reasonable opportunity to participate in a proceeding in which the request is considered. In determining whether to grant a request to unseal, the court must balance the need to keep the document or information confidential with the ability of the assessor to defend, and the person to challenge, the assessment. If the court rejects the request of the person objecting to the assessment, a board of review or court may not consider evidence brought by an assessor that consists of, or is based on, the document or information that was the subject of the request.