



## 2003 ASSEMBLY BILL 963

March 11, 2004 - Introduced by Representatives BERCEAU, HINES, SCHNEIDER, MILLER, POCAN, LOTHIAN, J. LEHMAN, HEBL, ZEPNICK and TURNER, cosponsored by Senators LASSA, CARPENTER, COGGS, CHVALA and HANSEN. Referred to Joint Survey Committee on Tax Exemptions.

1     **AN ACT** *to amend* 70.11 (intro.) and 70.11 (intro.); and *to create* 70.11 (43) and  
2             70.11 (44) of the statutes; **relating to:** a property tax exemption for property  
3             leased as housing.

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### *Analysis by the Legislative Reference Bureau*

Under current law, property owned and used exclusively by churches or religious, educational, or benevolent associations is exempt from property taxes. Under current law, leasing a part of any property that is exempt from property taxes does not render the property taxable, if the lessor uses all of the income earned from leasing the property for maintenance of the leased property or construction debt retirement of the leased property, or both, and if the lessee would be exempt from property taxes if the lessee owned the property.

The Wisconsin Supreme Court recently decided that residential housing owned by a benevolent association and leased to low-income individuals is subject to property taxes because the property would not be exempt from property taxes if the low-income individual owned the property. See, *Columbus Park Housing v. City of Kenosha*, 2003 WI 143.

Under this bill, for property tax assessments beginning in 2002 and ending in 2005, leasing all or a part of any property that is exempt from property taxes does not render the property taxable, if the property is housing or if the lessee would be exempt from property taxes if the lessee owned the property and the lessor uses all of the income earned from leasing the property for maintenance of the leased property or construction debt retirement of the leased property, or both.

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Under this bill, beginning with property tax assessments in 2006, property that is a qualified residential rental project, pursuant to requirements under federal law, is exempt from property taxes. A qualified residential rental project under federal law is, generally, a project that rents at least 20 percent of its residential units to individuals whose income is no more than 50 percent of the area median gross income or rents at least 40 percent of its residential units to individuals whose income is no more than 60 percent of the area median gross income.

In addition, under the bill, beginning with property tax assessments in 2006, property of a homeless shelter, domestic violence shelter, or transitional housing facility is exempt from property taxes.

Finally, the bill provides that, beginning with property tax assessments in 2006, leasing all or a part of any property that is a qualified residential rental project, homeless shelter, domestic violence shelter, or transitional housing facility does not render the property taxable.

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

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

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

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 all or a part of the property described in this section does not

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1 render it taxable if the leased property is housing or if the lessor uses all of the  
2 leasehold income for maintenance of the leased property, construction debt  
3 retirement of the leased property, or both and if the lessee would be exempt from  
4 taxation under this chapter if it owned the property. Any lessor who claims that  
5 leased property is exempt from taxation under this chapter shall, upon request by  
6 the tax assessor, provide records relating to the lessor's use of the income from the  
7 leased property. Property exempted from general property taxes is:

8 **SECTION 2.** 70.11 (intro.) of the statutes, as affected by 2003 Wisconsin Act ....  
9 (this act), is amended to read:

10 **70.11 Property exempted from taxation.** (intro.) The property described  
11 in this section is exempted from general property taxes if the property is exempt  
12 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and  
13 its use, occupancy or ownership did not change in a way that makes it taxable; if the  
14 property was taxable for the previous year, the use, occupancy or ownership of the  
15 property changed in a way that makes it exempt and its owner, on or before March 1,  
16 files with the assessor of the taxation district where the property is located a form  
17 that the department of revenue prescribes or if the property did not exist in the  
18 previous year and its owner, on or before March 1, files with the assessor of the  
19 taxation district where the property is located a form that the department of revenue  
20 prescribes. Leasing all or a part of the property described in this section does not  
21 render it taxable if the leased property is ~~housing~~ property described under subs. (43)  
22 and (44) or if the lessor uses all of the leasehold income for maintenance of the leased  
23 property, construction debt retirement of the leased property, or both and the lessee  
24 would be exempt from taxation under this chapter if it owned the property. Any  
25 lessor who claims that leased property is exempt from taxation under this chapter

**ASSEMBLY BILL 963****SECTION 2**

1 shall, upon request by the tax assessor, provide records relating to the lessor's use  
2 of the income from the leased property. Property exempted from general property  
3 taxes is:

4 **SECTION 3.** 70.11 (43) of the statutes is created to read:

5 70.11 (43) QUALIFIED RESIDENTIAL RENTAL PROJECT. (a) 1. In this subsection,  
6 "qualified residential rental project" means a qualified residential rental project  
7 under section 142 (d) of the Internal Revenue Code, not including section 142 (d) (4),  
8 (6), and (7) of the Internal Revenue Code, with the following modifications:

9 a. The owner of the qualified residential rental project is "the issuer at the time  
10 of the issuance of the issue" for purposes of section 142 (d) (1) of the Internal Revenue  
11 Code.

12 b. A period of no less than 1 year is the "qualified project period" for purposes  
13 of section 142 (d) (2) (A) of the Internal Revenue Code.

14 c. The phrase "by the secretary" does not apply for purposes of section 142 (d)  
15 (2) (B) of the Internal Revenue Code.

16 2. "Qualified residential rental project" includes property located on more than  
17 one tax parcel, if the parcels are owned by the same person and are adjacent,  
18 separated only by a street, or within the same condominium development.

19 3. "Qualified residential rental project" includes residential units that are  
20 within property owned by a cooperative, if the beneficial owner of any of the shares  
21 of the cooperative is an organization described under section 501 (c) (3) of the  
22 Internal Revenue Code, the shares carry with them the right to lease one or more  
23 units within the property, the organization is the lessee of the units pursuant to such  
24 right, and the organization subleases the units to individuals.

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1 (b) Any portion of property that is a qualified residential rental project, the  
2 beneficial owner of which is an organization described in section 501 (c) (3) of the  
3 Internal Revenue Code.

4 **SECTION 4.** 70.11 (44) of the statutes is created to read:

5 70.11 (44) SPECIAL HOUSING. Property, the beneficial owner of which is an  
6 organization described in section 501 (c) (3) of the Internal Revenue Code, that is  
7 used as a homeless shelter, domestic violence shelter, or transitional housing facility.

8 **SECTION 5. Initial applicability.**

9 (1) The treatment of section 70.11 (intro) (by SECTION 1) of the statutes first  
10 applies to the property tax assessments as of January 1, 2002.

11 (2) The treatment of section 70.11 (intro) (by SECTION 2), (43), and (44) of the  
12 statutes first applies to the property tax assessments as of January 1, 2006.

13 **SECTION 6. Effective date.**

14 (1) The treatment of section 70.11 (intro) (by SECTION 1) of the statutes takes  
15 effect retroactively to January 1, 2002.

16 (2) The treatment of section 70.11 (intro) (by SECTION 2), (43), and (44) of the  
17 statutes takes effect on January 1, 2006.

18 (END)