



## 2003 ASSEMBLY BILL 947

March 11, 2004 - Introduced by Representative BLACK, cosponsored by Senator RISSER. Referred to Joint Survey Committee on Tax Exemptions.

- 1     **AN ACT to amend** 70.11 (intro.); and **to create** 70.11 (43) of the statutes; **relating**  
2             **to:** the property tax exemption for leased property and creating a property tax  
3             exemption for residential housing owned by a benevolent association.

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### *Analysis by the Legislative Reference Bureau*

Under current law, property owned by and used exclusively by churches or religious, educational, or benevolent associations is exempt from property taxes, including benevolent nursing homes. In addition, under current law, real property owned by a nonprofit organization is exempt from property taxes, if the organization holds the property for the purpose of building or rehabilitating residential structures on the property and the structures will sold to low-income persons; it offers no-interest loans to low-income persons to purchase the structures; it requires prospective purchasers to participate in building or rehabilitating the structures; and it acquired the property within three years prior to the date of assessment.

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 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.

**ASSEMBLY BILL 947**

Under this bill, property owned by a benevolent association and used exclusively as any of the following, including any combination of the following, is exempt from property taxes: 1) a nursing home; 2) a residential care apartment complex; 3) a community-based residential facility; 4) a facility in which persons reside pursuant to a continuing care contract; and 5) low-income housing that satisfies the “safe harbor” requirements for relieving the poor and distressed, as provided under the regulations of the Internal Revenue Service.

This bill also provides that, regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, leasing a part of any property that is exempt from property taxes does not render the property taxable, if the property is owned and used exclusively by a church or a religious, educational, or benevolent association; owned by a nonprofit organization that holds property for the purpose of building or rehabilitating structures for sale to low-income persons; or owned by a benevolent association and used exclusively as a nursing home, a residential care apartment complex, a community-based residential facility, a facility in which persons reside pursuant to a continuing care contract, or low-income housing under the federal “safe harbor” regulations. In addition, the income earned from leasing such property must be used for the maintenance and operation of the leased property or debt retirement of the property, or both.

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

**ASSEMBLY BILL 947**

1 taxation district where the property is located a form that the department of revenue  
2 prescribes. Leasing a part of the property described in this section does not render  
3 it taxable if the lessor uses all of the leasehold income for the maintenance and  
4 operation of the leased property, ~~construction~~ debt retirement of the leased property  
5 or both and, except for property that is exempt under subs. (4), (4g), and (43), if the  
6 lessee would be exempt from taxation under this chapter if it owned the property.  
7 Any lessor who claims that leased property is exempt from taxation under this  
8 chapter shall, upon request by the tax assessor, provide records relating to the  
9 lessor's use of the income from the leased property. Property exempted from general  
10 property taxes is:

11 **SECTION 2.** 70.11 (43) of the statutes is created to read:

12 70.11 (43) BENEVOLENT ASSOCIATIONS. All or any portion of property that is  
13 owned by a benevolent association and used exclusively as any of the following,  
14 including any combination of the following:

15 (a) A residential care apartment complex, as defined in s. 50.01 (1d).

16 (b) A community-based residential facility, as defined in s. 50.01 (1g).

17 (c) A nursing home, as defined in s. 50.01 (3).

18 (d) A facility, as defined in s. 647.01 (4), in which persons reside pursuant to  
19 continuing care contracts, as defined in s. 647.01 (2).

20 (e) Low-income housing that satisfies the requirements under revenue  
21 procedure 96-32 of the internal revenue service.

22 **SECTION 3. Initial applicability.**

23 (1) This act first applies to the property tax assessments as of the effective date  
24 of this subsection.

25 **SECTION 4. Effective date.**

