



## 1997 ASSEMBLY BILL 290

April 17, 1997 - Introduced by Representatives FOTI, PLALE, GOETSCH, R. YOUNG, M. LEHMAN, AINSWORTH, HAHN, F. LASEE, ALBERS, OWENS, STASKUNAS, VRAKAS, SERATTI, KELSO and URBAN, cosponsored by Senators BURKE, WINEKE, CLAUSING, FITZGERALD, WEEDEN and GEORGE. Referred to Joint survey committee on Tax Exemptions.

1     **AN ACT** *to amend* 70.11 (intro.); and *to create* 70.109 and 74.35 (2m) of the  
2             statutes; **relating to:** codifying a presumption that property is taxable,  
3             requiring applications for property tax exemptions and specifying that claims  
4             that property is exempt may be made only as claims against a taxation district.

---

### *Analysis by the Legislative Reference Bureau*

Under this bill, property is presumed to be taxable (which codifies case law). With certain exceptions, if property did not exist in the previous year or if it was taxable for the previous year and its use, ownership or occupancy changes, that property is exempt only if the owner completes an application form. Challenges to the taxability of property; except treatment plant, pollution abatement equipment and manufacturing machinery and equipment; may be made only as claims against the taxation district.

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:*

5             **SECTION 1.** 70.109 of the statutes is created to read:

**ASSEMBLY BILL 290****SECTION 1**

1           **70.109 Presumption of taxability.** Exemptions under this chapter shall be  
2 strictly construed in every instance with a presumption that the property in question  
3 is taxable, and the burden of proof is on the person who claims the exemption.

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

5           **70.11 Property exempted from taxation.** (intro.) The property described  
6 in this section is exempted from general property taxes if the property is exempt  
7 under subs. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and  
8 its use, occupancy or ownership did not change in a way that makes it taxable; if the  
9 property was taxable for the previous year, the use, occupancy or ownership of the  
10 property changed in a way that makes it exempt and its owner, on or before March  
11 1, files with the assessor of the taxation district where the property is located a form  
12 that the department of revenue prescribes or if the property did not exist in the  
13 previous year and its owner, on or before March 1, files with the assessor of the  
14 taxation district where the property is located a form that the department of revenue  
15 prescribes. Leasing a part of the property described in this section does not render  
16 it taxable if the lessor uses all of the leasehold income for maintenance of the leased  
17 property, construction debt retirement of the leased property or both and if the lessee  
18 would be exempt from taxation under this chapter if it owned the property. Any  
19 lessor who claims that leased property is exempt from taxation under this chapter  
20 shall, upon request by the tax assessor, provide records relating to the lessor's use  
21 of the income from the leased property. Property exempted from general property  
22 taxes is:

23           **SECTION 3.** 74.35 (2m) of the statutes is created to read:

24           **74.35 (2m) EXCLUSIVE PROCEDURE.** A claim that property is exempt, other than  
25 a claim that property is exempt under s. 70.11 (21) (a) or (27), may be made only in

**ASSEMBLY BILL 290**

1 an action under this section. Such a claim may not be made by means of an action  
2 under s. 74.33 or an action for a declaratory judgment under s. 806.04.

3 **SECTION 4. Initial applicability.**

4 (1) This act first applies to the assessment as of January 1, 1998.

5 (END)