

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2372/1dn
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If this joint resolution is ratified, it will remove the uniformity clause impediment to the exempting the first \$25,000 of assessed value from real estate taxes. However, there may be a problem with article II, section 2, of the state constitution, which provides that "in no case shall nonresident proprietors be taxed higher than residents". In the section's context the tax seems to be the property tax and the "proprietors" seem to be property owners. Courts in uniformity clause cases have frequently considered property tax credits to be tax measures, which suggests that this exemption would be covered by that prohibition. This section and the one preceding it differ from all of the other sections of the constitution in that they cannot be amended. Article II, section 2, states that the propositions contained in the federal act that allowed Wisconsin to become a state are accepted and that they "remain irrevocable without the consent of the United States". Those propositions include the prohibition against higher taxes on nonresidents. In other words, a federal law authorizing the amendment would be needed if there is a problem. On the other hand, a court might hold that the exemption is constitutional, perhaps because it does not see any unequal treatment of nonresidents.

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