

**1999 DRAFTING REQUEST**

**Assembly Joint Resolution**

Received: 03/2/99

Received By: dykmapj

Wanted: As time permits

Identical to LRB:

For: James Kreuser (608) 266-5504

By/Representing: him

This file may be shown to any legislator: NO

Drafter: dykmapj

May Contact:

Alt. Drafters:

Subject: Constitutional Amendments

Extra Copies: JK  
MES

**Pre Topic:**

No specific pre topic given

**Topic:**

Exempt first \$25,000 of assessed value of owner occupied primary residences

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	dykmapj 03/4/99	gilfokm 03/4/99	jfrantze 03/5/99	_____	lrb_docadmin 03/5/99		
/1	dykmapj 03/5/99	gilfokm 03/5/99	jfrantze 03/5/99	_____	lrb_docadmin 03/5/99	lrb_docadmin 06/23/99	
	dykmapj 03/5/99	gilfokm 03/5/99	jfrantze 03/8/99	_____	lrb docadmin 03/8/99		

FE Sent For:

<END>

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*J 3/8*  
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/?	dykmapj	1/1-3-4-99 Kmg	Jb 3/5	Jb/ep 3/5			
FE Sent For:		1-3-5-99 Kmg	Jb 3/5	Jb/hh 3/5 <END>			



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-2372/P1

PJD...k:...

img

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**1999 ASSEMBLY JOINT RESOLUTION**

1 **To amend** section 1 of article VIII of the constitution; **relating to:** real estate taxes  
2 on the first \$25,000 of assessed value of certain real property (first  
3 consideration).

---

***Analysis by the Legislative Reference Bureau***

This proposed constitutional amendment, proposed to the 1999 legislature on first consideration, exempts from real estate taxes the first \$25,000 of assessed value of real property that is owned, and occupied at least 51% of the year, by a resident of this state as the property owner's primary residence.

The general statement of the Wisconsin Constitution that the "rule of taxation shall be uniform" is already subject to a number of exceptions: real estate taxes may be collected in more than one way; forests, minerals, agricultural land, undeveloped land and certain kinds of personal property may be taxed differently than is other property; and nonuniform income taxes, privilege taxes and occupational taxes may be imposed.

In addition to the substantive changes, this joint resolution makes stylistic changes and breaks this section into subsections to facilitate future amendments and to avoid conflicts if other amendments to this section are proposed.

A constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

---

5 ***Resolved by the assembly, the senate concurring, That:***

1           **SECTION 1.** Section 1 of article VIII of the constitution is amended to read:

2           [Article VIII] Section 1. The rule of taxation shall be uniform but the ~~except as~~  
3 follows:

4           (1) The legislature may empower by law authorize cities, villages or towns to  
5 collect and return taxes on real estate located therein by optional methods.

6           (2) Taxes shall be levied upon such property with such classifications as to  
7 forests and minerals including or separate or severed from the land, as the  
8 legislature ~~shall prescribe~~ prescribes by law.

9           (3) Taxation of agricultural land and undeveloped land, both as defined by law,  
10 need not be uniform with the taxation of each other nor with the taxation of other real  
11 property.

12           (4) Taxation of merchants' stock-in-trade, manufacturers' materials and  
13 finished products, and livestock need not be uniform with the taxation of real  
14 property and other personal property, but the taxation of all such merchants'  
15 stock-in-trade, manufacturers' materials and finished products and livestock shall  
16 be uniform, except that the legislature may provide by law that the value thereof  
17 shall be determined on an average basis. ~~Taxes may also be imposed~~

18           (5) The legislature may by law impose taxes on incomes, privileges and  
19 occupations, which taxes may be graduated and progressive, and reasonable  
20 exemptions may be provided.

21           (6) The first \$25,000 of assessed value of real property that is owned, and  
22 occupied at least 51% of the year, by a resident of this state as the property owner's  
23 primary residence is exempt from real estate taxes, beginning with real property  
24 assessed as of the January 1 after ratification of this subsection.





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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2372/1  
PJD.....  
Kmg

Monday - early A.M.

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 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.

Atty. Peter J. Dykman  
General Counsel  
Phone: (608) 266-7098  
E-mail: Peter.Dykman@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2372/1dn  
PJD:kmg:jf

March 8, 1999

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**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 3/5/99

**To:** Representative Kreuser

**Relating to LRB drafting number:** LRB-2372

**Topic**

Exempt first \$25,000 of assessed value of owner occupied primary residences

**Subject(s)**

Constitutional Amendments

1. **JACKET** the draft for introduction Tim Kreuser

in the Senate \_\_\_ or the Assembly  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Attorney Peter J. Dykman, Deputy Chief  
Telephone: (608) 266-7098