

2003 DRAFTING REQUEST

Bill

Received: **02/18/2004**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Terese Berceau (608) 266-3784**

By/Representing: **tom**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax - property**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Berceau@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Property tax exemption for leased housing

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>
/?				_____			S&L
				_____			Tax
/1	jkreye 02/19/2004	csicilia 02/19/2004	jfrantze 02/19/2004	_____	lemery 02/19/2004	lemery 02/19/2004	S&L
	jkreye 02/20/2004	csicilia 02/20/2004		_____			Tax

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

12

jfrantze _____
02/20/2004 _____

lemery
02/20/2004

lemery
02/20/2004

FE Sent For:

AA
intro.

<END>

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/1	jkreye 02/19/2004	csicilia 02/19/2004	jfrantze 02/19/2004	_____	lemery 02/19/2004	lemery 02/19/2004	

Handwritten notes:
1/2 cjs 2/20/04
2/20/04
2/20/04

02/19/2004 01:16:27 PM

Page 2

FE Sent For:

<END>

2003 DRAFTING REQUEST

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By/Representing: tom

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/?	jkreye		<i>J</i> 2/19	<i>J</i> 2/19			

FE Sent For:

<END>

2-18-04

Tom - Rep Bertram

① see WHEDA — 1-31-2004 — do

② — new exemption

1 - homeless shelter

2 - transitional housing facilities — ~~mental health~~

3 - domestic violence shelters

~~scattered site housing~~
for those with

501(c)(3) status doesn't matter for these
entities.

POSSIBLE AMENDMENTS TO SECTION 70.11, WISCONSIN STATUTES
TO ADDRESS
COLUMBUS PARK HOUSING CORPORATION v. CITY OF KENOSHA

January 31, 2004 Draft
By Wisconsin Housing and Economic Development Authority

[This gives tax exemption for Section 501(c)(3) owned residential property based on resident income by cross reference to federal tax exempt bond requirements.]

1. Amend the second sentence in the first paragraph of §70.11 by adding the phrase shown below in bold italics:

Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for the maintenance of the leased property, construction debt retirement of the leased property or both and, ***except for residential property***, if the lessee would be exempt from taxation under this chapter ~~if it owned the property.~~

2. Add the following as a new third sentence in the first paragraph of §70.11:

Effective January 1, 2006, the preceding sentence is deleted and replaced with the following: Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for the maintenance of the leased property, construction debt retirement of the leased property or both and, ***except for property described in s. 70.11(43)***, if the lessee would be exempt from taxation under this chapter if it owned the property.

3. Amend §70.11 by adding the following as a new last subsection:

(43) Qualified Residential Rental Project.

(1) Any portion of property the beneficial owner of which is an organization described in s. 501(c)(3) of the internal revenue code and which is a qualified residential rental project as defined in s. 142(d) of the internal revenue code except:

(a) The phrase “. . . issuer at the time of the issuance of the issue with respect to such project” in s. 142(d)(1) is deleted and replaced with “. . . the project owner”;

(b) S. 142(d)(2)(A) shall not apply, and instead the phrase “qualified project period” shall mean at least one year;

(c) The word "Secretary" shall mean the housing and economic development authority; and

(d) S. 142(d)(6) and (7) shall not apply.

(2) A qualified residential rental property may be located on more than one tax parcel owned by an owner if the parcels are adjacent, across a street from one another, or within one condominium development. When a cooperative owns a property, and the beneficial owner of any of its shares is an organization described in s. 501(c)(3) of the internal revenue code, and such shares carry with them the right to lease one or more residential units within the property, a qualified residential rental property may consist of the units such organization leases from the cooperative pursuant to such right provided the units are otherwise operated as a qualified residential rental property.

4. This act first applies to the property tax assessments as of January 1, 2002.
5. This act takes effect retroactively to January 1, 2002.



SA ✓

ys

2003 BILL

in 2-19-04

Gen cat

Today 3pm

1

AN ACT...; relating to: a property tax exemption for property leased as housing.

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 a part of any property that is exempt from property taxes does not render the property taxable, if the property is housing, regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, and 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.

Under this bill, beginning with property tax assessments in 2006, property that is a qualified residential rental project, as determined by the Wisconsin Housing and Economic Development Authority pursuant to the requirements under federal law, is exempt from property taxes. A qualified residential rental project under federal

2

BILL

law is, generally, a project ^{the that} which 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 leasing any 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, regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, ^{and} 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.

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:

^{create another "A"}
SECTION 1. 70.11 (intro.) of the statutes is amended to read:

70.11 Property exempted from taxation. (intro.) The property described in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes. Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for maintenance of the leased

BILL

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

create autoref "B"

History: 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 335 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 29 ss. 745m, 1646 (3), 1647 (5), (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189 s. 329 (16); 1983 a. 201, 327; 1985 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 25, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995 a. 27 ss. 3344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; 2001 a. 16, 38, 59, 103.

7 **SECTION 2. 70.11** (intro.) of the statutes, as affected by 2003 Wisconsin Act

8 (this act), is amended to read:

9 **70.11 Property exempted from taxation.** (intro.) The property described
 10 in this section is exempted from general property taxes if the property is exempt
 11 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and
 12 its use, occupancy or ownership did not change in a way that makes it taxable; if the
 13 property was taxable for the previous year, the use, occupancy or ownership of the
 14 property changed in a way that makes it exempt and its owner, on or before March 1,
 15 files with the assessor of the taxation district where the property is located a form
 16 that the department of revenue prescribes or if the property did not exist in the
 17 previous year and its owner, on or before March 1, files with the assessor of the
 18 taxation district where the property is located a form that the department of revenue
 19 prescribes. Leasing a part of the property described in this section does not render
 20 it taxable if the lessor uses all of the leasehold income for maintenance of the leased
 21 property, construction debt retirement of the leased property, or both, and except for
 22 housing property described under subs. (43) and (44), if the lessee would be exempt
 23 from taxation under this chapter if it owned the property. Any lessor who claims that

BILL**SECTION 2**

1 leased property is exempt from taxation under this chapter shall, upon request by
2 the tax assessor, provide records relating to the lessor's use of the income from the
3 leased property. Property exempted from general property 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 as
7 determined by the Wisconsin Housing and Economic Development Authority
8 pursuant to section 142 (d) of the Internal Revenue Code, not including section 142
9 (d) (6) and (7) of the Internal Revenue Code, with the following modifications:

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

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

15 c. The Wisconsin Housing and Economic Development Authority is the
16 "secretary" for purposes of section 142 (d) of the Internal Revenue Code.

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

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

BILL

1 (b) Any portion of property that is a qualified residential rental project.

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

3 70.11 (44) SPECIAL HOUSING. Property of a homeless shelter, domestic violence
4 shelter, or transitional housing facility. ✓

5 **SECTION 5. Initial applicability.**

6 (1) The treatment of section 70.11 (intro) by SECTION 1 of this act, of the statutes
7 first applies to the property tax assessments as of January 1, 2002. use autoreb "A" (from p. 2)

8 (2) The treatment of section 70.11 (intro) by SECTION 2 of this act, (43), and (44)
9 of the statutes first applies to the property tax assessments as of January 1, 2006. use autoreb "B" (from p. 3)

10 **SECTION 6. Effective date.**

11 (1) The treatment of section 70.11 (intro) by SECTION 1 of this act of the statutes
12 takes effect retroactively to January 1, 2002. use autoreb "A"

13 (2) The treatment of section 70.11 (intro) by SECTION 2 of this act, (43), and (44)
14 of the statutes takes effect on January 1, 2006. use autoreb "B"

15 (END)

Northrop, Lori

From: Powell, Thomas
Sent: Thursday, February 19, 2004 12:27 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4303/1 Topic: Property tax exemption for leased housing

It has been requested by <Powell, Thomas> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-4303/1 Topic: Property tax exemption for leased housing

Kreye, Joseph

From: Berceau, Terese
Sent: Thursday, February 19, 2004 4:42 PM
To: Kreye, Joseph
Subject: FW: Fax received (7p) from:'6082584258' on ID:2823676



3BDA5000.tif

Joe,
Here are Tim Radelet's tweaks.

-----Original Message-----

From: Faxination
Sent: Thursday, February 19, 2004 4:37 PM
To: Berceau, Terese
Subject: Fax received (7p) from:'6082584258' on ID:2823676

Incoming Fax:
Description:

Explanation:
Sent to:'2823676' CSID:6082584258 (0)

Items received: 7
Duration: 138 seconds **Transmission speed:** 14400 baud
Gateway ID: 0 **Job Reference:** 3BDA5

FOLEY & LARDNER
ATTORNEYS AT LAW
POST OFFICE BOX 1497
MADISON, WISCONSIN 53701-1497
150 EAST GILMAN STREET
MADISON, WISCONSIN 53703-1495
TELEPHONE: (608) 257-5035
FACSIMILE: (608) 258-4258

FACSIMILE TRANSMISSION

Total # of Pages 7 (including this page)

TO:	PHONE:	FAX #:
Representative Terese Berceau		(608) 282-3676

From: Timothy J. Radelet
Sender's Direct Dial: (608) 258-4219
Date: February 19, 2004
Client/Matter No: 010768-0144
User ID No: 0610

MESSAGE:

If there are any problems with this transmission or if you have not received all of the pages, please call (608) 258-4252.

Operator:	Time Sent:	Return Original To:
		Jane Schmidt

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FOLEY ■ LARDNER

ATTORNEYS AT LAW

February 19, 2004

FOLEY & LARDNER
VEREX PLAZA
150 EAST GILMAN STREET
MADISON, WISCONSIN 53703-1481
POST OFFICE BOX 1497
MADISON, WISCONSIN 53701-1497
608.257.5035 TEL
608.258.4258 FAX
www.foley.com

WRITER'S DIRECT LINE
608.258.4219
tradelet@foley.com EMAIL

CLIENT/MATTER NUMBER
010768-0144

VIA FACSIMILE (608) 282-3676

Representative Terese Berceau
State Capitol
Room 208 North
Post Office Box 8952
Madison, Wisconsin 53708

Re: Draft Bill

Dear Representative Berceau:

Accompanying this letter please find a copy of the draft bill that you emailed to me, marked to show my comments. Please take a look at them and let me hear your thoughts.

Thank you for the opportunity to comment on this draft.

Very truly yours,



Timothy J. Radelet

Attachments

2003 - 2004 LEGISLATURE

LRB-4303/1

JK:cjs:jf

2003 BILL

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.

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.

all or Under this bill, for property tax assessments beginning in 2002 and ending in 2005, leasing a part of any property that is exempt from property taxes does not render the property taxable, if the property is housing, regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, ~~and 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.

or whether

2003 - 2004 Legislature

- 2 -

LRB-4303/1
JK:cjs:jf

BILL

Under this bill, beginning with property tax assessments in 2006, property that is a qualified residential rental project, ~~as determined by the Wisconsin Housing and Economic Development Authority~~ 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 leasing ^{all or} any 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, regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, ~~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 regardless of whether

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:

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- 11

SECTION 1. 70.11 (intro.) of the statutes is amended to read:

70.11 Property exempted from taxation. (intro.) The property described in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue

2003 - 2004 Legislature

- 3 -

LRB-4303/1

JK:cjs:jf

SECTION 1

BILL

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

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

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

described in subs. (43) or (44); or if

L: the leased property is housing; OR IF

L: the leased property is housing - property des

2003 - 2004 Legislature

- 4 -

LRB-4303/1

JK:cjs:jf

BILL

SECTION 2

1 leased property is exempt from taxation under this chapter shall, upon request by
2 the tax assessor, provide records relating to the lessor's use of the income from the
3 leased property. Property exempted from general property 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 as
7 ~~determined by the Wisconsin Housing and Economic Development Authority~~

8 pursuant to section 142 (d) of the Internal Revenue Code, not including section 142
9 (d) ⁽⁴⁾ (6) and (7) ^{and the phrase "by the Secretary" in section 142(d)(2)} of the Internal Revenue Code, with the following modifications:

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

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

15 ~~c. The Wisconsin Housing and Economic Development Authority is the~~
16 ~~"secretary" for purposes of section 142 (d) of the Internal Revenue Code.~~

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

20 3. "Qualified residential rental project" includes residential units that are
21 within property owned by a cooperative, ~~if the units are leased to~~ (an organization
22 described under section 501 (c) (3) of the Internal Revenue Code, ~~the organization is~~
23 the beneficial owner of any of the shares of the cooperative, ^{is} the shares carry with

24 them the right to lease one or more units within the property, ~~and~~ the organization ^{is the}
25 leases the units pursuant to such right, ^{e of} and the organization ^{subleases}
the units to individuals,

2003 - 2004 Legislature

- 5 -

LRB-4303/1

JK:cjs:jf

SECTION 3

BILL

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the beneficial owner of which is an organization

(b) Any portion of property that is a qualified residential rental project

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

70.11 (44) SPECIAL HOUSING. Property of a homeless shelter, domestic violence shelter, or transitional housing facility *used as*

SECTION 5. Initial applicability.

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

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

SECTION 6. Effective date.

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

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

(END)

described in section 501(c)(3) of the Internal Revenue Code.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4303/1
JK:cjs:jf

NOON

2003 BILL

RMmtR

SK ✓

in 2-20-04

by noon please

Repeal
int.

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.

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 a part of any property that is exempt from property taxes does not render the property taxable, if the property is housing ~~regardless of whether~~ the lessee would be exempt from property taxes if the lessee owned the property, and 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.

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Under this bill, beginning with property tax assessments in 2006, property that is a qualified residential rental project, ~~as determined by the Wisconsin Housing and Economic Development Authority~~ 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 ^{all or a} leasing ~~any~~ 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, ~~regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, 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.~~

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:

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

↑ beginning with
property tax
assessments
in
2006 ↑

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prescribes. Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for maintenance of the leased property, construction debt retirement of the leased property, or both and ~~except for housing~~ if the lessee would be exempt from taxation under this chapter if it owned the property. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property. Property exempted from general property taxes is:

the leased property is housing or if

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↑

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

70.11 Property exempted from taxation. (intro.) The property described

in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes.

all or (PLAIN)

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Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for maintenance of the leased property, construction debt retirement of the leased property, or both and ~~except for housing~~ property described under subs. (43) and (44), if the lessee would be exempt from taxation under this chapter if it owned the property. Any lessor who claims that

the leased property is housing or if

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BILL

SECTION 2

1 leased property is exempt from taxation under this chapter shall, upon request by
2 the tax assessor, provide records relating to the lessor's use of the income from the
3 leased property. Property exempted from general property 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 ~~as~~
7 ~~determined by the Wisconsin Housing and Economic Development Authority~~
8 ~~pursuant to~~ ^{under} section 142 (d) of the Internal Revenue Code, not including section 142
9 (d)(6), and (7) of the Internal Revenue Code, with the following modifications:

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

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

15 c. The ^{phrase} ~~Wisconsin Housing and Economic Development Authority is the~~
16 "secretary" for purposes of section 142 (d) ^{(2)(B)} of the Internal Revenue Code.
17 ^{by the} ^{does not apply}

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

21 3. "Qualified residential rental project" includes residential units that are
22 within property owned by a cooperative, if ~~the units are leased to~~ ^{is} an organization
23 described under section 501 (c) (3) of the Internal Revenue Code, ~~that organization is~~

24 the beneficial owner of any of the shares of the cooperative the shares carry with

25 them the right to lease one or more units within the property, ~~and~~ the organization ^{is the}
~~lessee of~~ the units pursuant to such right, ^{and the organization subleases}
^{the units to individuals}

BILL

(b) Any portion of property that is a qualified residential rental project.

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(END)

, the beneficial owner of which is an organization described in section 501(c)(3) of the Internal Revenue Code

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