

2003 SENATE BILL 512

March 1, 2004 – Introduced by Senators ROESSLER and STEPP. Referred to Joint Survey Committee on Tax Exemptions.

1 **AN ACT** *to amend* 70.11 (intro.); and *to repeal and recreate* 70.11 (intro.) of the
2 statutes; **relating to:** the property tax exemption for property that is leased as
3 residential 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 a low-income tenant is subject to property taxes because the property would not be exempt from property taxes if the low-income tenant owned the property. See, *Columbus Park Housing v. City of Kenosha*, 2003 WI 143.

For property tax assessments beginning in 2002 and ending in 2005, this bill provides that leasing a part of any property that is exempt from property taxes does not render the property taxable, if the property is residential 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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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
12 prescribes. Leasing a part of the property described in this section does not render
13 it taxable if the lessor uses all of the leasehold income for maintenance of the leased
14 property, or construction debt retirement of the leased property, or both, and, except
15 for residential housing, if the lessee would be exempt from taxation under this
16 chapter if it owned the property. Any lessor who claims that leased property is
17 exempt from taxation under this chapter shall, upon request by the tax assessor,
18 provide records relating to the lessor's use of the income from the leased property.
19 Property exempted from general property taxes is:

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1 **SECTION 2.** 70.11 (intro.) of the statutes, as affected by 2003 Wisconsin Act ...
2 (this act), is repealed and recreated to read:

3 **70.11 Property exempted from taxation.** (intro.) The property described
4 in this section is exempted from general property taxes if the property is exempt
5 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and
6 its use, occupancy or ownership did not change in a way that makes it taxable; if the
7 property was taxable for the previous year, the use, occupancy or ownership of the
8 property changed in a way that makes it exempt and its owner, on or before March 1,
9 files with the assessor of the taxation district where the property is located a form
10 that the department of revenue prescribes or if the property did not exist in the
11 previous year and its owner, on or before March 1, files with the assessor of the
12 taxation district where the property is located a form that the department of revenue
13 prescribes. Leasing a part of the property described in this section does not render
14 it taxable if the lessor uses all of the leasehold income for maintenance of the leased
15 property or construction debt retirement of the leased property, or both, and if the
16 lessee would be exempt from taxation under this chapter if it owned the property.
17 Any lessor who claims that leased property is exempt from taxation under this
18 chapter shall, upon request by the tax assessor, provide records relating to the
19 lessor's use of the income from the leased property. Property exempted from general
20 property taxes is:

21 **SECTION 3. Nonstatutory provisions.**

22 (1) **PROPERTY TAX EXEMPTIONS RELATED TO LEASED PROPERTY.** The legislative
23 council staff shall study the effect of *Columbus Park Housing v. City of Kenosha*, 2003
24 WI 143, on property tax exemptions for property that is leased, pursuant to section
25 70.11 (intro.) of the statutes, 2001 stats., and as affected by this act. The legislative

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1 council staff shall report its findings, conclusions, and recommendations to the
2 legislature in the manner provided under section 13.172 (2) of the statutes no later
3 than December 15, 2004.

4 **SECTION 4. Initial applicability.**

5 (1) The amendment of section 70.11 (intro.) of the statutes first applies to the
6 property tax assessments as of January 1, 2002.

7 (2) The repeal and recreation of section 70.11 (intro.) of the statutes first applies
8 to the property tax assessments as of January 1, 2006.

9 **SECTION 5. Effective dates.** This act takes effect on the day after publication,
10 except as follows:

11 (1) The amendment of section 70.11 (intro.) of the statutes and SECTION 4 (1)
12 of this act take effect retroactively to January 1, 2002.

13 (2) The repeal and recreation of section 70.11 (intro.) of the statutes and
14 SECTION 4 (2) of this act take effect on January 1, 2006.

15 (END)