

2003 DRAFTING REQUEST

Bill

Received: 02/06/2004

Received By: jkreye

Wanted: Today

Identical to LRB:

For: Carol Roessler (608) 266-5300

By/Representing: karen

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: Sen.Roessler@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us
mary.matthias@legis.state.wi.us
karen.asbjornson@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Property tax exemption for residential property leased by a benevolent association

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 02/06/2004	kfollett 02/06/2004	chaugen 02/06/2004		sbasford 02/06/2004	Inorthro 02/13/2004	S&L Tax

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	jkreye 02/25/2004	kfollett 02/25/2004		_____			
/2	jkreye 02/25/2004	kfollett 02/25/2004	jfrantze 02/25/2004	_____	mbarman 02/25/2004	mbarman 02/25/2004	S&L Tax
/3			jfrantze 02/25/2004	_____	sbasford 02/25/2004	sbasford 02/25/2004	

FE Sent For: 02/16/2004.

"/1" /
"/3" At intro <END>

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/1	jkreye 02/06/2004	kfollett 02/06/2004	chaugen 02/06/2004	_____	sbasford 02/06/2004	lnorthro 02/13/2004	S&L Tax

Handwritten notes: 1/3 kjf 2/25, jkreye 2/25, Self 2/25

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	jkreye 02/25/2004	kfollett 02/25/2004		_____			
12			jfrantze 02/25/2004	_____	mbarman 02/25/2004	mbarman 02/25/2004	

FE Sent For: 02/16/2004.

old
"1"
version

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/1	jkreye 02/06/2004	kfollett 02/06/2004	chaugen 02/06/2004	_____	sbasford 02/06/2004	Inorthro 02/13/2004	
		12/16/04 2/25	2/25	2/25			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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<END>

→ 02-16-2004
(1/1")

see attached

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per JK

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1/?	jkreye	1/16 2/6	Ch 2-6	JK JK			

FE Sent For:

<END>

Matthias, Mary

From: Asbjornson, Karen
Sent: Thursday, February 05, 2004 6:08 PM
To: Matthias, Mary
Subject: Re: Draft language needed

Importance: High

Hi Mary,

I apologize I have to email this to you but I have some medical testing in the morning. It was decided today that the easiest way to fix this issue in the short term would be to install a stop-gap mechanism and allow time for review and a Legislative Council committee to review and recommend a longer term solution.

Provide that for the period from January 1, 2002 through December 31, 2005 residential housing will not be subject to the "lessee identity condition" which was interpreted by the Wisconsin Supreme Court in Columbus Park.

In addition, Carol wants language to reflect that a Legislative Council study needs to be commissioned on this issue. This language should reflect that the Legislative Council Study Committee must submit its report by December 15, 2004.

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us

Matthias, Mary

Subject: FW: Re: Draft language needed

Thanks Mary! I just want to stress again that Panzer and Roessler want this done ASAP. When you can, please give me an estimate of when we might see a draft.

Thanks!



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4214/1

JK: [signature]
KF

2003 BILL

in 2-6-04

now please

D-N

Gen

1 AN ACT ...; relating to: the property tax exemption for property that is leased as
2 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, Wis.2d ~~2004~~ 2002

For property tax assessments beginning in ~~2004~~ 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.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

insert

BILL

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.

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:

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.

BILL

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, Wis.2d on property tax exemptions for property that is leased, pursuant
25 to section 70.11 (intro.) of the statutes, 2001 stats., and as affected by this act. The

BILL

staff

1 legislative council 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.** *amendment*

5 *Create AR. 1*
Auto ref 2 (1) The ~~treatment~~ of section 70.11 (intro.) of the statutes first applies to the
6 property tax assessments as of January 1, 2002.

7 *Create auto ref 3* (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 ~~treatment~~ of section 70.11 (intro.) of the statutes and SECTION 4 (1) take
12 effect retroactively *to* on January 1, 2002. *AR. 1 AR. 2*

13 (2) *AR. 1* The repeal and recreation of section 70.11 (intro.) of the statutes and
14 SECTION 4 (2) *AR. 3* take effect on January 1, 2006.

(END)

of this act

of this act

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4214/1dn

JK: *kejl*

Date

Senator Roessler:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4214/1dn
JK:kjf:ch

February 6, 2004

Senator Roessler:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Barman, Mike

From: Kreye, Joseph
Sent: Monday, February 16, 2004 12:05 PM
To: Barman, Mike
Subject: LRB-4214; Fiscal estimate

Hi Mike,

Karen in Sen. Roessler's office would like to a fiscal estimate for LRB-4214/1. They would like it as soon as possible, but I told her that we have no control over that.
Thanks.

Joe

Kreye, Joseph

From: Matthias, Mary
Sent: Wednesday, February 25, 2004 9:10 AM
To: Kreye, Joseph
Subject: housing- roessler draft 4214/1

per my voice message:

Joe- this is why Roessler wants the change:

I spoke with Tim Radelet about this language. He explained that although current statutes require a non-profit to use all of the leasehold income for maintenance and construction debt retirement, that requirement was never enforced and most non-profits could not meet that requirement. Including this requirement would probably make it impossible for the non-profits that were getting the exemption before Columbus Park to get it under the Roessler draft.

Mary Matthias
Senior Staff Attorney
Legislative Council Staff
ph.(608)266-0932;fax (608)266-3830
mary.matthias@legis.state.wi.us

2-25-04

Mary Mathews

LRB-4214 - Sen Roemer

incorporate section 1 of Berceus's bill
into LRB-4214 related to debt
retirement and construction costs, etc.

Fiscal Estimate - 2003 Session

Original Updated Corrected Supplemental

LRB Number 03-4214/1	Introduction Number	
Subject Property tax exemption for residential property leased by a benevolent association		
Fiscal Effect		
State:		
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local:		
<input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected		
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS		
Affected Ch. 20 Appropriations		
Agency/Prepared By DOR/ Daniel Huegel (608) 266-5705	Authorized Signature Dennis Collier (608) 266-5773	Date 3/2/2004

Copy to Senator Roessler 03-02-2004
 → FE is for old "1" version
 → draft is now a "13"

Fiscal Estimate Narratives

DOR 3/2/2004

LRB Number 03-4214/1	Introduction Number	Estimate Type	Original
Subject			
Property tax exemption for residential property leased by a benevolent association			

Assumptions Used in Arriving at Fiscal Estimate

In its decision in Columbus Park Housing Corporation v. Kenosha, the Wisconsin Supreme Court held that property owned by Columbus Park -- a non-stock and non-profit corporation that buys and rehabilitates residential property and rents these properties to qualified low-income families -- was not exempt from property taxation. The Court based its decision on the preamble to sec. 70.11 which states that exempt property leased to another retains its exemption only if the lessee can also claim exemption from property taxes. Since the low-income families that rent from Columbus Park are not exempt from property taxes, the Court held that Columbus Park's property was not exempt from property taxation.

Previous to the decision, an organization such as Columbus Park was considered to be a benevolent association whose property was exempt under the provisions of sec. 70.11 (4) of state statutes.

Under current law, as a result of the Court decision, municipalities may be able to treat affected property as omitted property for the 2002 and 2003 assessment years, and issue tax bills for those years as if the property had been taxable. In addition, the property is to be placed on the tax rolls and treated as other taxable property beginning with the 2004 assessment.

Under the bill, the previous interpretation of the law which was applied to property such as that owned by Columbus Park will remain in effect for the 2002 to 2005 assessment years. Beginning with the 2006 assessment year, this property would be subject to property taxation.

Based on information from the exemption summary reports filed in 2002 by owners of exempt housing with municipalities and submitted to the Department of Revenue, the total value of exempt housing (excluding nursing, retirement, and religious housing) is estimated to be about \$862 million. It is not clear that the entire \$862 million is now taxable under the Columbus Park decision and would become exempt under the bill, but assuming the entire amount is taxable and a net average statewide tax rate of \$20.55 per \$1,000 equalized value (the net rate for 2002/03), about \$17.7 million (\$862 million X 0.02055) in property taxes would be shifted to other taxpayers for the 2004/05 and 2005/06 tax years. Subsequently, this property would again be taxable.

If the higher property taxes resulting from the Columbus Park decision are shifted to renters, these renters would be eligible for the Homestead Credit, to the extent they meet the income and other requirements for that credit. This bill, by exempting low-income housing for 2004/05 and 2005/06, would eliminate credits for these renters, since Homestead cannot be claimed on tax-exempt housing, except when payments in lieu of taxes are made on the housing. Assuming that credit is claimed on the full \$17.7 million in property taxes that otherwise would have been paid on exempt housing, with minimal reduction due to payments in lieu of taxes, and that the Homestead Credit equalled 45.2%, which was the credit as a percent of rent constituting property taxes for Homestead claims filed in 2003, this bill would reduce Homestead Credits by approximately \$8 million per year in both FY05 and FY06. This "reduction" essentially offsets unanticipated additional expenditures on Homestead that resulted from the Columbus Park decision.

The State of Wisconsin imposes a tax of \$0.20 per \$1,000 of equalized value for purposes of state forestry programs. If the \$862 million in previously exempt housing that is taxable under the Columbus Park decision is exempt for 2004/05 and 2005/06, the state forestation tax would decrease by \$172,400 (\$862 million X 0.0002) each year.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 03-4214/1		Introduction Number	
Subject			
Property tax exemption for residential property leased by a benevolent association			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
\$-172,400 in state forestry tax collections in the 2004/05 and 2005/06 property tax years; -\$8 million in reduced Homestead Credits in FY05 and FY06.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	Date
DOR/ Daniel Huegel (608) 266-5705		Dennis Collier (608) 266-5773	3/2/2004



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4214/Y 2
JK:kf:AM

RM:ms:AR

2003 BILL

in 2-25-04

Regen
Today

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.

only

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, ~~and 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.~~ 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.

BILL

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.

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9 that the department of revenue prescribes or if the property did not exist in the
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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~~ ^{plain} 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:

the leased property is housing or if

BILL

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

BILL**SECTION 3**

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.

SECTION 4. Initial applicability.

4
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)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4214/2
JK:kf:11

3
RMustR

2003 SENATE BILL

Today 2-25-04

Regen

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 housing or if the lessee would be exempt from property taxes if the lessee owned the property, and 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.~~

SENATE BILL

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,
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10 previous year and its owner, on or before March 1, files with the assessor of the
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12 prescribes. Leasing a part of the property described in this section does not render
13 it taxable if the leased property is housing or if the lessor uses all of the leasehold
14 income for maintenance of the leased property, construction debt retirement of the
15 leased property, or both and 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:

SENATE BILL

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7 property was taxable for the previous year, the use, occupancy or ownership of the
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INSERT
3-20

SENATE BILL**SECTION 3**

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14 SECTION 4 (2) of this act take effect on January 1, 2006.

15 (END)

2003 BILL

INSERT
3-20

1 AN ACT to amend 70.11 (intro.); and to repeal and recreate 70.11 (intro.) of the
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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.


BILL

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.

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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
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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
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end of insert 3-20

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BILL

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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)

4214

Kreye, Joseph

From: Asbjornson, Karen
Sent: Wednesday, February 25, 2004 1:21 PM
To: Kreye, Joseph
Cc: Matthias, Mary
Subject: RE: RE: So sorry...

Yes

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us

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

From: Kreye, Joseph
Sent: Wednesday, February 25, 2004 1:15 PM
To: Asbjornson, Karen
Cc: Matthias, Mary
Subject: RE: RE: So sorry...

Sorry, but it already went out. Do you want it redrafted to change it back?

Joseph T. Kreye
Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

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

From: Asbjornson, Karen
Sent: Wednesday, February 25, 2004 12:52 PM
To: Kreye, Joseph
Cc: Matthias, Mary
Subject: RE: So sorry...
Importance: High

Hi Joe,

Please send me back the jacket for our /1 on the housing-Columbus Park draft. You can stop drafting the /2 with the change Mary Mathias talked with you about this morning. Sorry for any inconvenience to you and Mary. I apologize especially because I know how busy you are!

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us