

## 2007 SENATE BILL 403

January 18, 2008 – Introduced by Senators TAYLOR, COGGS, PLALE, BRESKE and DECKER, cosponsored by Representatives GOTTLIEB, GRIGSBY, ALBERS, DAVIS, FIELDS, HAHN, HONADEL, MONTGOMERY, STONE, TOWNSEND, TURNER, YOUNG, VAN ROY and RHOADES. Referred to Committee on Judiciary, Corrections, and Housing.

1     **AN ACT to amend** 70.11 (intro.) and 70.11 (4); and **to create** 70.11 (4a) of the  
2             **statutes; relating to:** the property tax exemption for low-income housing.

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### *Analysis by the Legislative Reference Bureau*

Under current law, property owned by churches or religious or benevolent associations, including benevolent nursing homes and retirement homes for the aged, is exempt from the property tax. Under this bill, property owned by churches or religious or benevolent associations and used as low-income housing is exempt from the property tax. Under the bill, low-income housing is any residential housing unit within a low-income housing project occupied by a low-income or very low-income person, as determined pursuant to the income limits published by the U.S. Department of Housing and Urban Development, or that is vacant and only available to such persons.

Under current law, if property that is exempt from property taxes is leased, the property retains its tax exemption if the property owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property, or both, and, except for residential property, if the lessee would be eligible for the exemption if the lessee owned the property.

Under the bill, leasing property that is low-income housing does not make the property taxable if the property owner uses all of the leasehold income for certain expenditures directly related to the low-income housing project to which the property belongs, except that the property owner may, generally, use up to 10 percent of the leasehold income for certain expenditures, or any amount for debt service, directly related to any other low-income housing project under the owner's control

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that is located in this state. Eligible expenditures include maintenance, capital replacements, insurance premiums, project management, debt retirement, moneys reserved for project-related purposes, general and administrative expenses, social services and other resident services, utilities, financing costs, any other expenditure related to preserving and managing the project, and any other similar expenditure.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the 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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***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~~ Except as provided in sub. (4a) (e), leasing a part of the property  
13 described in this section does not render it taxable if the lessor uses all of the  
14 leasehold income for maintenance of the leased property or construction debt  
15 retirement of the leased property, or both, and, except for residential housing, 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

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1 chapter shall, upon request by the tax assessor, provide records relating to the  
2 lessor's use of the income from the leased property. Property exempted from general  
3 property taxes is:

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

5 70.11 (4) EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS;  
6 HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES. Property owned and used exclusively  
7 by educational institutions offering regular courses 6 months in the year; or by  
8 churches or religious, educational or benevolent associations, including benevolent  
9 nursing homes and retirement homes for the aged but not including an organization  
10 that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health  
11 maintenance organization as defined in s. 609.01 (2) or a limited service health  
12 organization as defined in s. 609.01 (3) or an organization that is issued a certificate  
13 of authority under ch. 618 and that offers a health maintenance organization or a  
14 limited service health organization and not including property owned by any  
15 nonstock, nonprofit corporation which services guaranteed student loans for others  
16 or on its own account, and also including property owned and used for housing for  
17 pastors and their ordained assistants, members of religious orders and communities,  
18 and ordained teachers, whether or not contiguous to and a part of other property  
19 owned and used by such associations or churches, and also including property that  
20 is low-income housing, as defined under sub. (4a) (a); or by women's clubs; or by  
21 domestic, incorporated historical societies; or by domestic, incorporated, free public  
22 library associations; or by fraternal societies operating under the lodge system  
23 (except university, college and high school fraternities and sororities), but not  
24 exceeding 10 acres of land necessary for location and convenience of buildings while  
25 such property is not used for profit. Property owned by churches or religious

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1 associations necessary for location and convenience of buildings, used for  
2 educational purposes and not for profit, shall not be subject to the 10-acre limitation  
3 but shall be subject to a 30-acre limitation. Property owned by churches or religious  
4 or benevolent associations necessary for location and convenience of buildings, used  
5 for a low-income housing project, as defined under sub. (4a) (b), including other  
6 low-income housing projects under common control with such project, shall not be  
7 subject to the 10-acre limitation but shall be subject to a limitation of 30 acres and  
8 a limitation of 10 contiguous acres in any one municipality. Property that is exempt  
9 from taxation under this subsection and is leased remains exempt from taxation only  
10 if, in addition to the requirements specified in the introductory phrase of this section,  
11 the lessee does not discriminate on the basis of race.

12 **SECTION 3.** 70.11 (4a) of the statutes is created to read:

13 70.11 **(4a)** LOW-INCOME HOUSING. (a) For purposes of sub. (4), “low-income  
14 housing” means any residential unit within a low-income housing project that is  
15 occupied by a low-income or very low-income person or is vacant and is only  
16 available to such persons.

17 (b) For purposes of this subsection and sub. (4), “low-income housing project”  
18 means a residential housing project for which all of the following apply:

19 1. At least 75 percent of the occupied residential units are occupied by  
20 low-income or very low-income persons.

21 2. At least one of the following applies:

22 a. At least 20 percent of the residential units are rented to persons who are very  
23 low-income persons or are vacant and are only available to such persons.

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1           b. At least 40 percent of the residential units are rented to persons whose  
2 income does not exceed 120 percent of the very low-income limit or are vacant and  
3 only available to such persons.

4           (c) For purposes of this subsection, low-income persons and very low-income  
5 persons shall be determined in accordance with the income limits published by the  
6 federal department of housing and urban development for low-income and very  
7 low-income families under the National Housing Act of 1937.

8           (d) For purposes of this subsection and sub. (4), all properties included within  
9 the same federal department of housing and urban development contract or within  
10 the same federal department of agriculture, rural development, contract are  
11 considered to be one low-income housing project.

12           (e) Leasing property that is exempt from taxation under sub. (4) as low-income  
13 housing does not render it taxable if the lessor uses all of the leasehold income from  
14 the property for any of the following expenditures directly related to the low-income  
15 housing project to which the property belongs, except that the lessor may use up to  
16 10 percent of the leasehold income for any of the following expenditures directly  
17 related to any other low-income housing project under common control with that  
18 project and located in this state, and except that the lessor may use any of the  
19 leasehold income for debt service for any other low-income housing project under  
20 common control with that project, under the same mortgage, and located in this state  
21 and such amount is not considered for purposes of the 10 percent maximum  
22 described in this paragraph:

- 23           1. Maintenance.
- 24           2. Capital replacements.
- 25           3. Insurance premiums.

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- 1           4. Project management.
- 2           5. Debt retirement.
- 3           6. Moneys reserved for project-related purposes.
- 4           7. General and administrative expenses.
- 5           8. Social services and other resident services provided at the project.
- 6           9. Utilities.
- 7           10. Financing costs.
- 8           11. Any other expenditure related to preserving and managing the project.
- 9           12. Any other similar project-related expenditure.

10           (f) 1. Annually, no later than March 1, each person who owns a low-income  
11 housing project shall file with the assessor of the taxation district in which the project  
12 is located a statement that specifies which units were occupied on January 1 of that  
13 year by persons whose income satisfied the income limit requirements under par. (a),  
14 as certified by the property owner to the appropriate federal or state agency, and a  
15 copy of the federal department of housing and urban development contract or federal  
16 department of agriculture, rural development, contract.

17           2. The format and distribution of statements under this paragraph shall be  
18 governed by s. 70.09 (3).

19           3. If the statement required under this paragraph is not received on or before  
20 March 1, the taxation district assessor shall send the property owner a notice, by  
21 certified mail to the owner's last known address of record, stating that failure to file  
22 a statement is subject to the penalties under subd. 5.

23           4. In addition to the statement under subd. 1., the taxation district assessor  
24 may require that a property owner submit other information to prove that the

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1 person's property qualifies as low-income housing that is exempt from taxation  
2 under sub. (4).

3 5. A person who fails to file a statement within 30 days after notification under  
4 subd. 3. shall forfeit \$10 for each succeeding day on which the form is not received  
5 by the taxation district assessor, but not more than \$500.

6 **SECTION 4. Initial applicability.**

7 (1) This act first applies retroactively to the property tax assessments as of  
8 January 1, 2006.

9 **SECTION 5. Effective date.**

10 (1) This act takes effect retroactively on January 1, 2006.

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(END)