

**2019 DRAFTING REQUEST**

**Bill**

For: **Administration-Budget** Drafter: **elunder**  
 By: **Quinn** Secondary Drafters:  
 Date: **12/6/2018** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email:  
 Carbon copy (CC) to: **doasbostatlanguage@wisconsin.gov**  
**erika.lunder@legis.wisconsin.gov**  
**joseph.kreye@legis.wisconsin.gov**

**Pre Topic:**

DOA:.....Quinn, BB0138 -

**Topic:**

Assessment of leased property

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	elunder 12/10/2018	anienaja 12/14/2018			
/P1	elunder 2/16/2019	mbarman 2/18/2019	lparisi 12/14/2018		State S&L
/P2			mbarman 2/18/2019		State S&L

FE Sent For: **<END>**

**Kreye, Joseph**

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**From:** Hanaman, Cathlene  
**Sent:** Thursday, December 06, 2018 12:01 PM  
**To:** Kreye, Joseph; Lunder, Erika  
**Subject:** FW: Statutory Language Drafting Request - 2019-21

**From:** Quinn, Brian D - DOA <Brian.Quinn@wisconsin.gov>  
**Sent:** Thursday, December 06, 2018 12:00 PM  
**To:** Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>  
**Cc:** Ziegler, Paul - DOA <Paul2.Ziegler@wisconsin.gov>; Quinn, Brian D - DOA <Brian.Quinn@wisconsin.gov>  
**Subject:** Statutory Language Drafting Request - 2019-21

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Biennial Budget: 2019-21

Topic: Assessments of Leased Property

Tracking Code: BB0138

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA  
Phone: (608) 266-1923  
E-mail: [brian.quinn@wisconsin.gov](mailto:brian.quinn@wisconsin.gov)

Agency Acronym: 566

Agency Number: 566

Priority: Medium

Intent:

Draft 2017 Senate Bill 291 and 2017 Senate Bill 292 for inclusion in the Executive Budget. Include the amendments adopted for both bills.

Attachments: False

Please send completed drafts to [SBOSatlanguage@spsmail.enterprise.wisstate.us](mailto:SBOSatlanguage@spsmail.enterprise.wisstate.us)



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBa1089/1  
JK:ahe&emw

SENATE AMENDMENT 1,  
TO SENATE BILL 291

August 28, 2017 - Offered by Senator STROEBEL.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 8: delete “current use of the property” and substitute “use of the  
3 property as of the current assessment date”.

4 **2.** Page 3, line 9: delete “in the immediate future” and substitute “before the  
5 next assessment date”.

6 **3.** Page 3, line 9: after “possible,” insert “not speculative,”.

7 **4.** Page 3, line 12: after “value.” insert “In this subsection, “legally  
8 permissible” does not include a conditional use that has not been granted as of the  
9 assessment date.”.

10 **5.** Page 3, line 14: delete “leased”.





State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBa1328/1  
JK:emw

**SENATE AMENDMENT 1,  
TO SENATE AMENDMENT 1,  
TO SENATE BILL 291**

October 10, 2017 - Offered by Senator STROEBEL.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 6: after "not" insert "highly".

3 (END)



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBa1270/1  
JK:klm

**SENATE AMENDMENT 2,  
TO SENATE BILL 292**

October 4, 2017 - Offered by Senator ROTH.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 15: after “of the property” insert “, or prohibits competition,”.

3 **2.** Page 2, line 16: after “2.” insert “and the property being assessed lacks such  
4 a restriction.”.

5 **3.** Page 2, line 17: delete lines 17 and 18.

6 **4.** Page 2, line 19: delete “3.” and substitute “2.”.

7 **5.** Page 3, line 3: delete lines 3 to 5 and substitute:

8 “(c) For purposes of par. (a), “highest and best use” means the specific use of the  
9 property as of the current assessment date or a higher use to which the property can  
10 be expected to be put in before the next assessment date, if the use is legally  
11 permissible, physically possible, not highly speculative, and financially feasible and  
12 provides the highest net return. When the current use of a property is the highest

1 and best use of that property, value in the current use equals full market value. In  
2 this paragraph, “legally permissible” does not include a conditional use that has not  
3 been granted as of the assessment date.”

4 (END)

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State of Wisconsin  
2017 - 2018 LEGISLATURE

IN: 12/10

DVE: 12/14

1018/P1  
LRB-8507/D

JKild&amn

EKL

**2017 SENATE BILL 291**

June 2, 2017 - Introduced by Senators STROEBEL, ROTH, BEWLEY, CARPENTER, ERPENBACH, HANSEN, LARSON, LEMAHIEU, MARKLEIN, MILLER, OLSEN, PETROWSKI, RINGHAND and WIRCH, cosponsored by Representatives R. BROOKS, STEFFEN, HINTZ, BERCEAU, BERNIER, BILLINGS, CONSIDINE, DOYLE, DUCHOW, GANNON, HEBL, HORLACHER, KATZMA, KESSLER, KNODL, KOYENGA, KREMER, KRUG, KUGLITSCH, MACCO, MASON, MURPHY, MURSAU, OHNSTAD, PETERSEN, QUINN, RODRIGUEZ, ROHRKASTE, SANFELIPPO, SARGENT, SCHRAA, SPIROS, SPREITZER, STUCK, SUBECK, TAUCHEN, TITTL, WICHGERS, ZEPNICK and ZIMMERMAN. Referred to Committee on Revenue, Financial Institutions and Rural Issues.

SA  
ref  
Pw

Abgen

1 AN ACT *to amend* 70.03 (1) and 70.32 (1); and *to create* 70.32 (1b) of the statutes;

2 relating to: property tax assessments regarding leased property *the budget*

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

This bill provides that, for property tax purposes, real property includes any leases, rights, and privileges pertaining to the property, including assets that cannot be taxed separately as real property, but are inextricably intertwined with the real property. The bill also requires real property to be assessed at its highest and best use. Current law requires that real property be assessed at its full value and upon actual view or from the best information that the assessor can obtain from "arm's-length sales" of comparable property. This bill defines an "arm's-length sale" as a sale between a willing buyer and willing seller, neither being under compulsion to buy or sell and each being familiar with the attributes of the property sold.

The bill also provides that an assessor shall determine the value of leased property by considering the lease provisions and actual rent pertaining to property, if the lease provisions and rent are the result of an "arm's-length transaction." The bill defines an "arm's-length transaction" as an agreement between willing parties, neither being under compulsion to act and each being familiar with the attributes of the property.

The Wisconsin Supreme Court decided in 2008 that a property tax assessment of leased retail property using the income approach must be based on "market rents," which is what a person would pay to rent the property, based on rentals of similar property, as opposed to "contract rents," which is the amount that the lessee actually paid to rent the property. See, *Walgreen Company v. City of Madison*, 2008 WI 80, 752 N.W.2d 689 (2008). This bill reverses that decision.



**SENATE BILL 291**

INS-A →

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.** 70.03 (1) of the statutes is amended to read:

2           70.03 (1) In chs. 70 to 76, 78, and 79, “real property,” “real estate,” and “land”  
3 include not only the land itself but all buildings and, fixtures, improvements thereon,  
4 ~~and all fixtures and, leases,~~ rights, and privileges appertaining thereto, including  
5 assets that cannot be taxed separately as real property, but are inextricably  
6 intertwined with the real property, enable the real property to achieve its highest and  
7 best use, and are transferable to future owners, except as provided in sub. (2) and  
8 except that for the purpose of time-share property, as defined in s. 707.02 (32), real  
9 property does not include recurrent exclusive use and occupancy on a periodic basis  
10 or other rights, including, but not limited to, membership rights, vacation services,  
11 and club memberships. In this subsection, “lease” means a right in real estate that  
12 is related primarily to the property and not to the labor, skill, or business acumen of  
13 the property owner or tenant. In this subsection, “highest and best use” has the  
14 meaning given in s. 70.32 (1).

15           **SECTION 2.** 70.32 (1) of the statutes is amended to read:

16           ~~70.32 (1)~~ Real property shall be valued by the assessor in the manner specified  
17 in the Wisconsin property assessment manual provided under s. 73.03 (2a) at its  
18 highest and best use from actual view or from the best information that the assessor  
19 can practicably obtain, at the full value which could ordinarily be obtained therefor  
20 at private sale. In determining the value, the assessor shall consider recent  
21 arm’s-length sales of the property to be assessed if according to professionally

**SENATE BILL 291**

1 acceptable appraisal practices those sales conform to recent arm's-length sales of  
 2 reasonably comparable property; recent arm's-length sales of reasonably  
 3 comparable property; and all factors that, according to professionally acceptable  
 4 appraisal practices, affect the value of the property to be assessed. In this subsection,  
 5 "arm's-length sale" means a sale between a willing buyer and willing seller, neither  
 6 being under compulsion to buy or sell and each being familiar with the attributes of  
 7 the property sold. In this subsection, "highest and best use" means the specific  
 8 current use of the property or a higher use to which the property can be expected to  
 9 be put in the immediate future, if the use is legally permissible, physically possible,  
 10 and financially feasible and provides the highest net return. When the current use  
 11 of a property is the highest and best use of that property, value in the current use  
 12 equals full market value.

*as of the current assessment date*

*before the next assessment date*

*not highly speculative,*

**SECTION 3.** 70.32 (1b) of the statutes is created to read:

14 ~~70.32 (1b)~~ In determining the value of leased real property under sub. (1), the  
 15 assessor shall consider the lease provisions and actual rent pertaining to a property  
 16 and affecting its value, including the lease provisions and rent associated with a sale  
 17 and leaseback of the property, if all such lease provisions and rent are the result of  
 18 an arm's-length transaction involving persons who are not related, as provided  
 19 under section 267 of the Internal Revenue Code for the year of the transaction. In  
 20 this subsection, an "arm's-length transaction" means an agreement between willing  
 21 parties, neither being under compulsion to act and each being familiar with the  
 22 attributes of the property.

*, as part of the valuation under sub. (1), any*

INS 3-23  
23

**SECTION 4. Initial applicability.**

(1) This act first applies to the property tax assessments as of January 1, 2018.

INS 3-25  
25

(END)

*In this subsection, "legally permissible" does not include a conditional use that has not been granted as of the assessment date.*

INS-A

**TAXATION**

**PROPERTY TAXATION**

This bill requires that real property be assessed for property tax purposes at its highest and best use and provides that real property includes any leases, rights, and privileges pertaining to the property, including assets that are inextricably intertwined with it. The bill also requires that an assessor determine the value of leased property by considering the lease provisions and actual rent if the provisions and rent are the result of an arm's-length transaction. In so doing, the bill reverses a 2008 decision by the Wisconsin Supreme Court that held a property tax assessment of leased retail property using the income approach must be based on market rent, which is what a person would pay based on similar rentals, rather than the actual rent. See, *Walgreen Company v. City of Madison*, 2008 WI 80, 752 N.W.2d 689 (2008). The bill also requires an assessor, when determining the value of property using generally accepted appraisal methods, to consider property as comparable to the property being assessed if the properties have the same or similar highest and best use or share certain characteristics, such as age, condition, and location. Under the bill, a property is not comparable to the property being assessed if the property is dark property or if the seller has placed restrictions on its highest and best use or that prohibit competition, and the property being assessed is not dark property or subject to similar restrictions. The bill defines "dark property" as property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment.

1           INS 3-25

2           **SECTION 9337. Initial applicability; Revenue.**

3           (1) REAL PROPERTY TAX ASSESSMENTS. The treatment of ss. 70.03 (1), 70.32 (1),  
4           70.32 (1b), and 70.32 (1d) first applies to the property tax assessments as of January  
5           1, 2020.

**SENATE BILL 292**

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:*

INS 3-23:

1. SECTION 1. 70.32 (1b) of the statutes is created to read:

2. (1d) 70.32 (1b) (a) To determine the value of property using generally accepted  
3 appraisal methods, the assessor shall consider all of the following as comparable to  
4 the property being assessed:

5 1. Sales or rentals of properties exhibiting the same or a similar highest and  
6 best use <sup>as defined in sub. (1d)</sup> with placement in the same real estate market segment.

7 2. Sales or rentals of properties that are similar to the property being assessed  
8 with regard to age, condition, use, type of construction, location, design, physical  
9 features, and economic characteristics, including similarities in occupancy and the  
10 the potential to generate rental income. For purposes of this subdivision, such  
11 properties may be found locally, regionally, or nationally.

12 (b) For purposes of par. (a), a property is not comparable if any of the following  
13 applies:

14 1. At or before the time of sale, the seller places any deed restriction on the  
15 property that changes the highest and best use of the property so that it no longer  
16 qualifies as a comparable property under par. (a) 1. or 2. <sup>as defined in sub. (1),</sup>  
<sup>or prohibits competition,</sup>

17 2. At or before the time of sale, the seller places a deed restriction on the  
18 property that substantially impairs the property's marketability.

19 (2) (3) The property is dark property and the property being assessed is not dark  
20 property. In this subdivision, "dark property" means property that is vacant or  
21 unoccupied beyond the normal period for property in the same real estate market

And the property being assessed lacks such a restriction.

**SENATE BILL 292**

1 segment. For purposes of this subdivision, what is considered vacant or unoccupied  
2 beyond the normal period may vary depending on the property location.

3 (c) For purposes of par. (a), "highest and best use" means a use that is legally  
4 permissible, physically possible, and financially feasible and that provides the  
5 highest net return.

6 (c) (d) For purposes of par. (a), "real estate market segment" means a pool of  
7 potential buyers and sellers that typically buy or sell properties similar to the  
8 property being assessed, including potential buyers who are investors or  
9 owner-occupants. For purposes of this paragraph, and depending on the type of  
10 property being assessed, the pool of potential buyers and sellers may be found locally,  
11 regionally, nationally, or internationally.

12 **SECTION 2. Initial applicability.**

13 (1) This act first applies to the property tax assessments as of January 1, 2018.

14 (END)

END

INS 3-2311

**Lunder, Erika**

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**From:** Quinn, Brian D - DOA  
**Sent:** Friday, February 15, 2019 1:56 PM  
**To:** Lunder, Erika  
**Subject:** Assessment of Leased Property Draft Revision 1018/P1

Erika,

One added provision for inclusion in this draft is that DOR shall provide assistance to and training for local assessors to implement and apply the provisions of the "dark store" legislation included in this draft.

Thanks.

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Brian Quinn  
Executive Policy and Budget Analyst - Advanced  
Wisconsin Department of Administration  
Division of Executive Budget and Finance  
(608)-266-1923



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1018/P1  
EKL:amn

P2

DOA:.....Quinn, BB0138 - Assessment of leased property

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**PROPERTY TAXATION**

This bill requires that real property be assessed for property tax purposes at its highest and best use and provides that real property includes any leases, rights, and privileges pertaining to the property, including assets that are inextricably intertwined with it. The bill also requires that an assessor determine the value of leased property by considering the lease provisions and actual rent if the provisions and rent are the result of an arm's-length transaction. In so doing, the bill reverses a 2008 decision by the Wisconsin Supreme Court that held a property tax assessment of leased retail property using the income approach must be based on market rent, which is what a person would pay based on similar rentals, rather than the actual rent. See, *Walgreen Company v. City of Madison*, 2008 WI 80, 752 N.W.2d 689 (2008). The bill also requires an assessor, when determining the value of property using generally accepted appraisal methods, to consider property as comparable to the property being assessed if the properties have the same or similar highest and best use or share certain characteristics, such as age, condition, and location. Under the bill, a property is not comparable to the property being assessed if the property is dark property or if the seller has placed restrictions on its highest and best use or that prohibit competition, and the property being assessed is not dark property or subject to similar restrictions. The bill defines "dark property" as property that is vacant or

1. Dark property and leased property tax assessments

1

unoccupied beyond the normal period for property in the same real estate market segment.

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

---

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3 include not only the land itself but all buildings and, fixtures, improvements thereon,  
4 ~~and all fixtures and, leases,~~ rights, and privileges appertaining thereto, including  
5 assets that cannot be taxed separately as real property, but are inextricably  
6 intertwined with the real property, enable the real property to achieve its highest and  
7 best use, and are transferable to future owners, except as provided in sub. (2) and  
8 except that for the purpose of time-share property, as defined in s. 707.02 (32), real  
9 property does not include recurrent exclusive use and occupancy on a periodic basis  
10 or other rights, including, but not limited to, membership rights, vacation services,  
11 and club memberships. In this subsection, “lease” means a right in real estate that  
12 is related primarily to the property and not to the labor, skill, or business acumen of  
13 the property owner or tenant. In this subsection, “highest and best use” has the  
14 meaning given in s. 70.32 (1).

15           **SECTION 2.** 70.32 (1) of the statutes is amended to read:

16           70.32 (1) Real property shall be valued by the assessor in the manner specified  
17 in the Wisconsin property assessment manual provided under s. 73.03 (2a) at its  
18 highest and best use from actual view or from the best information that the assessor  
19 can practicably obtain, at the full value which could ordinarily be obtained therefor  
20 at private sale. In determining the value, the assessor shall consider recent



1 arm's-length sales of the property to be assessed if according to professionally  
2 acceptable appraisal practices those sales conform to recent arm's-length sales of  
3 reasonably comparable property; recent arm's-length sales of reasonably  
4 comparable property; and all factors that, according to professionally acceptable  
5 appraisal practices, affect the value of the property to be assessed. In this subsection,  
6 "arm's-length sale" means a sale between a willing buyer and willing seller, neither  
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8 the property sold. In this subsection, "highest and best use" means the specific use  
9 of the property as of the current assessment date or a higher use to which the  
10 property can be expected to be put before the next assessment date, if the use is  
11 legally permissible, physically possible, not highly speculative, and financially  
12 feasible and provides the highest net return. When the current use of a property is  
13 the highest and best use of that property, value in the current use equals full market  
14 value. In this subsection, "legally permissible" does not include a conditional use  
15 that has not been granted as of the assessment date.

16 **SECTION 3.** 70.32 (1b) of the statutes is created to read:

17 70.32 (1b) In determining the value of real property under sub. (1), the assessor  
18 shall consider, as part of the valuation under sub. (1), any lease provisions and actual  
19 rent pertaining to a property and affecting its value, including the lease provisions  
20 and rent associated with a sale and leaseback of the property, if all such lease  
21 provisions and rent are the result of an arm's-length transaction involving persons  
22 who are not related, as provided under section 267 of the Internal Revenue Code for  
23 the year of the transaction. In this subsection, an "arm's-length transaction" means  
24 an agreement between willing parties, neither being under compulsion to act and  
25 each being familiar with the attributes of the property.

1           **SECTION 4.** 70.32 (1d) of the statutes is created to read:

2           70.32 **(1d)** (a) To determine the value of property using generally accepted  
3 appraisal methods, the assessor shall consider all of the following as comparable to  
4 the property being assessed:

5           1. Sales or rentals of properties exhibiting the same or a similar highest and  
6 best use, as defined in sub. (1), with placement in the same real estate market  
7 segment.

8           2. Sales or rentals of properties that are similar to the property being assessed  
9 with regard to age, condition, use, type of construction, location, design, physical  
10 features, and economic characteristics, including similarities in occupancy and the  
11 potential to generate rental income. For purposes of this subdivision, such  
12 properties may be found locally, regionally, or nationally.

13           (b) For purposes of par. (a), a property is not comparable if any of the following  
14 applies:

15           1. At or before the time of sale, the seller places any deed restriction on the  
16 property that changes the highest and best use, as defined in sub. (1), of the property,  
17 or prohibits competition, so that it no longer qualifies as a comparable property  
18 under par. (a) 1. or 2. and the property being assessed lacks such a restriction.

19           2. The property is dark property and the property being assessed is not dark  
20 property. In this subdivision, "dark property" means property that is vacant or  
21 unoccupied beyond the normal period for property in the same real estate market  
22 segment. For purposes of this subdivision, what is considered vacant or unoccupied  
23 beyond the normal period may vary depending on the property location.

24           (c) For purposes of par. (a), "real estate market segment" means a pool of  
25 potential buyers and sellers that typically buy or sell properties similar to the

1 property being assessed, including potential buyers who are investors or  
2 owner-occupants. For purposes of this paragraph, and depending on the type of  
3 property being assessed, the pool of potential buyers and sellers may be found locally,  
4 regionally, nationally, or internationally.

5 **SECTION 9337. Initial applicability; Revenue.**

6 (1) REAL PROPERTY TAX ASSESSMENTS. The treatment of ss. 70.03 (1) and 70.32  
7 (1), (1b), and (1d) first applies to the property tax assessments as of January 1, 2020.

8 (END)

(d) The department <sup>of revenue</sup> shall assist local assessors with implementing and applying this subsection.



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1018/P2  
EKL:amn

DOA:.....Quinn, BB0138 - Assessment of leased property

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**PROPERTY TAXATION**

***1. Dark property and leased property tax assessments***

This bill requires that real property be assessed for property tax purposes at its highest and best use and provides that real property includes any leases, rights, and privileges pertaining to the property, including assets that are inextricably intertwined with it. The bill also requires that an assessor determine the value of leased property by considering the lease provisions and actual rent if the provisions and rent are the result of an arm's-length transaction. In so doing, the bill reverses a 2008 decision by the Wisconsin Supreme Court that held a property tax assessment of leased retail property using the income approach must be based on market rent, which is what a person would pay based on similar rentals, rather than the actual rent. See, *Walgreen Company v. City of Madison*, 2008 WI 80, 752 N.W.2d 689 (2008). The bill also requires an assessor, when determining the value of property using generally accepted appraisal methods, to consider property as comparable to the property being assessed if the properties have the same or similar highest and best use or share certain characteristics, such as age, condition, and location. Under the bill, a property is not comparable to the property being assessed if the property is dark property or if the seller has placed restrictions on its highest and best use or that

prohibit competition, and the property being assessed is not dark property or subject to similar restrictions. The bill defines “dark property” as property that is vacant or unoccupied beyond the normal period for property in the same real estate market segment.

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.** 70.03 (1) of the statutes is amended to read:

2           70.03 (1) In chs. 70 to 76, 78, and 79, “real property,” “real estate,” and “land”  
3 include not only the land itself but all buildings and, fixtures, improvements thereon,  
4 and all fixtures and, leases, rights, and privileges appertaining thereto, including  
5 assets that cannot be taxed separately as real property, but are inextricably  
6 intertwined with the real property, enable the real property to achieve its highest and  
7 best use, and are transferable to future owners, except as provided in sub. (2) and  
8 except that for the purpose of time-share property, as defined in s. 707.02 (32), real  
9 property does not include recurrent exclusive use and occupancy on a periodic basis  
10 or other rights, including, but not limited to, membership rights, vacation services,  
11 and club memberships. In this subsection, “lease” means a right in real estate that  
12 is related primarily to the property and not to the labor, skill, or business acumen of  
13 the property owner or tenant. In this subsection, “highest and best use” has the  
14 meaning given in s. 70.32 (1).

15           **SECTION 2.** 70.32 (1) of the statutes is amended to read:

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18 highest and best use from actual view or from the best information that the assessor  
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1 at private sale. In determining the value, the assessor shall consider recent  
2 arm's-length sales of the property to be assessed if according to professionally  
3 acceptable appraisal practices those sales conform to recent arm's-length sales of  
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17 **SECTION 3.** 70.32 (1b) of the statutes is created to read:

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20 rent pertaining to a property and affecting its value, including the lease provisions  
21 and rent associated with a sale and leaseback of the property, if all such lease  
22 provisions and rent are the result of an arm's-length transaction involving persons  
23 who are not related, as provided under section 267 of the Internal Revenue Code for  
24 the year of the transaction. In this subsection, an "arm's-length transaction" means

1 an agreement between willing parties, neither being under compulsion to act and  
2 each being familiar with the attributes of the property.

3 **SECTION 4.** 70.32 (1d) of the statutes is created to read:

4 70.32 (1d) (a) To determine the value of property using generally accepted  
5 appraisal methods, the assessor shall consider all of the following as comparable to  
6 the property being assessed:

7 1. Sales or rentals of properties exhibiting the same or a similar highest and  
8 best use, as defined in sub. (1), with placement in the same real estate market  
9 segment.

10 2. Sales or rentals of properties that are similar to the property being assessed  
11 with regard to age, condition, use, type of construction, location, design, physical  
12 features, and economic characteristics, including similarities in occupancy and the  
13 potential to generate rental income. For purposes of this subdivision, such  
14 properties may be found locally, regionally, or nationally.

15 (b) For purposes of par. (a), a property is not comparable if any of the following  
16 applies:

17 1. At or before the time of sale, the seller places any deed restriction on the  
18 property that changes the highest and best use, as defined in sub. (1), of the property,  
19 or prohibits competition, so that it no longer qualifies as a comparable property  
20 under par. (a) 1. or 2. and the property being assessed lacks such a restriction.

21 2. The property is dark property and the property being assessed is not dark  
22 property. In this subdivision, "dark property" means property that is vacant or  
23 unoccupied beyond the normal period for property in the same real estate market  
24 segment. For purposes of this subdivision, what is considered vacant or unoccupied  
25 beyond the normal period may vary depending on the property location.

