



State of Wisconsin
2005 - 2006 LEGISLATURE

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JK:lmk:ch

ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY BILL 573

February 16, 2006 – Offered by Representatives VUKMIR, HUEBSCH, STRACHOTA,
PRIDEMORE, HUNDERTMARK, PETROWSKI and VAN ROY.

1 AN ACT *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.); and *to*
2 *create* 70.11 (4) (c), 70.11 (4) (d) and 70.11 (4) (i) of the statutes; **relating to:**
3 the property tax exemption exemption for property owned by certain
4 benevolent or educational associations and the use of income from certain
5 tax-exempt leased property.

Analysis by the Legislative Reference Bureau

Under current law, property owned and used exclusively by benevolent associations, including benevolent nursing homes and retirement homes for the aged, is exempt from the property tax, if the property is not used for profit. This substitute amendment modifies the property tax exemption under current law for property owned by benevolent associations, including benevolent nursing homes and retirement homes for the aged by setting forth the specific types of property owned by a benevolent association that are exempt from property taxes.

Under the substitute amendment, the types of property owned by a benevolent association that are exempt from the property tax are:

1. Nursing homes licensed under s. 50.03.
2. Community based residential facilities licensed under s. 50.03.
3. Adult family homes certified under s. 50.032 or licensed under s. 50.033.
4. Residential care apartment complexes registered or certified under s. 50.034.

5. Domestic abuse shelters.
6. Shelters for the homeless, including transitional housing facilities.
7. Housing for low-income persons that is operated in compliance with income eligibility limits for federal low-income housing programs.
8. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.
9. Residential housing for persons with permanent disabilities.
10. Housing for older persons, if the housing is affiliated with a community-based residential facility, nursing home, or residential care apartment complex.
11. Property that is not residential housing.

Under the substitute amendment, property owned by a benevolent association that is residential housing is subject to the property tax if it does not fit within any of the categories described above.

Under current law, nonresidential property owned and used exclusively by a benevolent association is exempt from the property tax. Under the substitute amendment, nonresidential property owned by a church or religious association is exempt from the property tax.

Under current law, if property that is exempt from property taxes is leased, the property retains its tax exemption only if the owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property or both.

The substitute amendment provides that leasing property owned by benevolent associations and certain education associations as residential housing does not render the property taxable if the property owner uses all of the lease income to support its benevolent or educational activities, or in the case of a church or religious association, to support the activities of the church or association. In addition, the substitute amendment provides that a property owner may not discriminate based on race.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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

1 property changed in a way that makes it exempt and its owner, on or before March 1,
2 files with the assessor of the taxation district where the property is located a form
3 that the department of revenue prescribes or if the property did not exist in the
4 previous year and its owner, on or before March 1, files with the assessor of the
5 taxation district where the property is located a form that the department of revenue
6 prescribes. Leasing a part of the property described in this section does not render
7 it taxable if, except for property described in sub. (4), the lessor uses all of the
8 leasehold income for maintenance of the leased property or construction debt
9 retirement of the leased property, or both, and, except for residential housing, if the
10 lessee would be exempt from taxation under this chapter if it owned the property.
11 Leasing property described in sub. (4) as residential housing does not render it
12 taxable if the property owner uses all of the leasehold income to support the
13 benevolent or educational activities of the owner, or, in the case of a church or
14 religious association, to support the activities of the church or association, and the
15 activities are undertaken in the county where the tax-exempt property is located or
16 in a contiguous county. In addition, leasing property described in sub. (4) (c) 7. or (i)
17 as residential housing does not render it taxable if the property owner uses all of the
18 leasehold income to support the provision of similar housing anywhere in this state.
19 Any lessor who claims that leased property is exempt from taxation under this
20 chapter shall, upon request by the tax assessor, provide records relating to the
21 lessor's use of the income from the leased property. Property exempted from general
22 property taxes is:

23 **SECTION 2.** 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and
24 amended to read:

1 70.11 (4) (intro.) Property owned and used exclusively by ~~educational~~ any of the
2 entities described in this subsection while such property is used not for profit.
3 Property that is exempt from taxation under this subsection and is leased remains
4 exempt from taxation only if, in addition to the requirements specified in the
5 introductory phrase of this section, the property owner and the lessee do not
6 discriminate on the basis of race. The amount of land exempt under this subsection
7 may not exceed 10 acres of land necessary for location and convenience of buildings,
8 except as provided in par. (b). This subsection does not include property owned by
9 an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that
10 offers a health maintenance organization as defined in s. 609.01 (2) or a limited
11 service health organization as defined in s. 609.01 (3) or by an organization that is
12 issued a certificate of authority under ch. 618 and that offers a health maintenance
13 organization or a limited service health organization or by any nonstock, nonprofit
14 corporation which services guaranteed student loans for others or on its own account.
15 For purposes of this subsection, "benevolent association" means an organization that
16 is described in section 501 (c) of the Internal Revenue Code and that is exempt from
17 taxation under section 501 (a) of the Internal Revenue Code. The property of the
18 following entities is exempt from taxation under this subsection:

19 (a) Educational institutions offering regular courses 6 months in the year; ~~or~~
20 ~~by churches~~ and educational associations.

21 (b) Churches or religious, educational or benevolent associations, including
22 ~~benevolent nursing homes and retirement homes for the aged but not including an~~
23 ~~organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers~~
24 ~~a health maintenance organization as defined in s. 609.01 (2) or a limited service~~
25 ~~health organization as defined in s. 609.01 (3) or an organization that is issued a~~

1 ~~certificate of authority under ch. 618 and that offers a health maintenance~~
2 ~~organization or a limited service health organization and not including property~~
3 ~~owned by any nonstock, nonprofit corporation which services guaranteed student~~
4 ~~loans for others or on its own account, and also including property owned and used~~
5 ~~for housing for pastors and their ordained assistants, members of religious orders~~
6 ~~and communities, and ordained teachers, whether or not contiguous to and a part of~~
7 ~~other property owned and used by such associations or churches; or by women's, but~~
8 ~~not other types of residential housing except for the property described in par. (c).~~
9 Property owned by churches or religious associations necessary for location and
10 convenience of buildings, used for educational purposes and not for profit, shall not
11 be subject to the 10-acre limitation under this subsection but shall be subject to a
12 30-acre limitation.

13 (e) Women's clubs; or by domestic,

14 (f) Domestic incorporated historical societies; or by domestic,

15 (g) Domestic incorporated, free public library associations; or by fraternal,

16 (h) Fraternal societies operating under the lodge system (except university,
17 college and high school fraternities and sororities), but not exceeding 10 acres of land
18 necessary for location and convenience of buildings while such property is not used
19 for profit. Property owned by churches or religious associations necessary for
20 location and convenience of buildings, used for educational purposes and not for
21 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre
22 limitation. Property that is exempt from taxation under this subsection and is leased
23 remains exempt from taxation only if, in addition to the requirements specified in the
24 introductory phrase of this section, the lessee does not discriminate on the basis of
25 race, except university, college, and high school fraternities and sororities.

SECTION 3. 70.11 (4) (c) of the statutes is created to read:

70.11 (4) (c) Benevolent associations, churches, or religious associations, if the property is used for any or any combination of the following purposes:

1. A nursing home licensed under s. 50.03.
2. A community-based residential facility licensed under s. 50.03.
3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
4. A residential care apartment complex registered or certified under s. 50.034.
5. A domestic abuse shelter.
6. A shelter for the homeless, including transitional housing facilities.
7. Housing for low-income persons that is operated in compliance with sections 3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32. In order to claim the exemption under this subdivision, the property owner shall provide the assessor an affidavit stating that the property meets the requirements under this subdivision. For the purposes of this subdivision, “project”, as used in Internal Revenue Service revenue procedure 96-32, includes property located on more than one tax parcel, if the parcels are owned or operated by the same person and are adjacent, separated only by a street or other public right-of-way, or within the same condominium development.
8. A residential facility, the primary purpose of which is to provide alcohol or other drug abuse treatment or services or housing for persons with, or who are recovering from, alcohol or other drug abuse problems.

9. Residential housing that is occupied by one or more persons with permanent disabilities, for whom evidence is available that demonstrates that these persons

1 meet the medical definition of permanent disability used to determine eligibility for
2 programs administered by the federal social security administration.

3 10. Housing for older persons that is affiliated with a community-based
4 residential facility or nursing home licensed under s. 50.03 or a residential care
5 apartment complex registered or certified under s. 50.034, any one of which is located
6 within the same county or a contiguous county. Housing for older persons will be
7 considered affiliated if it meets the definition of an affiliate under s. 180.0103 (1) and
8 the affiliated entity is not for profit. For purposes of this subdivision, “housing for
9 older persons” means housing that is solely intended for and primarily occupied by
10 persons who are 62 years of age or older.

11 **SECTION 4.** 70.11 (4) (d) of the statutes is created to read:

12 70.11 (4) (d) Benevolent associations, if the property is not residential.

13 **SECTION 5.** 70.11 (4) (i) of the statutes is created to read:

14 70.11 (4) (i) All property owned by an eligible sponsor, as defined in s. 234.01
15 (5), that is used exclusively to provide housing for persons and families of low and
16 moderate income.

17 **SECTION 6. Initial applicability.**

18 (1) This act first applies retroactively to the property tax assessments as of
19 January 1, 2004.

20 **SECTION 7. Effective date.**

21 (1) This act takes effect retroactively on January 1, 2004.

22 (END)