



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0283/1
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ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 903

February 17, 2020 - Offered by Representative PETERSEN.

1 **AN ACT** *to amend* 70.47 (2m), 70.47 (7) (af), 70.47 (8) (d) and 70.47 (9) (a); and
2 *to create* 70.325 and 74.37 (6) of the statutes; **relating to:** requiring property
3 owners to submit specified information for commercial property tax
4 assessments.

Analysis by the Legislative Reference Bureau

This bill authorizes a property tax assessor, when assessing commercial property, to request a person to provide specified documents related to the property's fair market value.

Under the bill, the assessor may request a specific list of documents from the person no later than January 15 of the assessment year. The assessor must make the request using a form prescribed by the Department of Revenue that contains the exclusive list of documents that may be requested. The assessor may request any of the listed documents that were executed, prepared, or submitted within the current year or three prior years. The person must complete the form and attach the requested documents no later than March 31, although the person is not obligated to produce a document that is not in the person's possession. If the person fails to timely provide a requested document that is in the person's possession when the request is made, the person may not offer the document in a valuation hearing.

The bill specifies that no document or information provided via the form is controlling on the assessor in the assessment of property and that nothing in the bill

limits the assessor's authority to seek additional valuation evidence from any source or creates a presumption that any of the documents or information are relevant to the assessment of property. The bill also provides that the failure of a person to respond to a request may not limit the person's ability to challenge an assessment in any venue.

Under the bill, the documents and information provided via the form are confidential and must remain under seal before a board of assessors, a board of review, DOR, the Tax Appeals Commission, and a court unless the person who provided the document or information consents to the unsealing or a court grants a request to unseal. Under the bill, an assessor may request the court to unseal any of the documents or information in an excessive property tax assessment action or by petition to the circuit court. Also under the bill, a person objecting to an assessment may request a court to gain access to the documents or information used to assess, or defend the assessment of, the person's property or that are otherwise relevant to the property's assessment. The person who provided the document or information to the assessor must be given notice of a request to unseal and a reasonable opportunity to participate in a proceeding in which the request is considered. In determining whether to grant a request to unseal, the court must balance the need to keep the document or information confidential with the ability of the assessor to defend, and the person to challenge, the assessment. If the court rejects the request of the person objecting to the assessment, a board of review or court may not consider evidence brought by an assessor that consists of, or is based on, the document or information that was the subject of the request.

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

1 **SECTION 1.** 70.325 of the statutes is created to read:

2 **70.325 Requirement to provide information for commercial property**

3 **assessments.** (1) To determine the value of property classified under s. 70.32 (2)

4 (a) 2. for which a person should be assessed, an assessor may request, no later than

5 January 15 of the current assessment year, the person to submit evidence of the

6 property's fair market value. An assessor shall make a request by providing the

7 person with a form prescribed by the department of revenue that the person shall

8 complete. The form prescribed by the department shall list only the documents in

9 pars. (a) to (h) and shall require the person to declare whether each document exists

10 for the property to be assessed and, if so, to attach a copy to the form. The assessor

1 may request any of the listed documents that were executed, prepared, or submitted
2 within the current assessment year or the 3 years prior to the current assessment
3 year. Only the following documents shall be listed on the form:

4 (a) All of the following relating to the rental of the property:

5 1. Itemized operating statements.

6 2. Vacancy losses.

7 3. Rent rolls.

8 4. Leases.

9 5. Lease abstracts.

10 6. Federal tax form 8825.

11 (b) All of the following relating to a sale or potential sale of the property:

12 1. Purchase agreements.

13 2. Listing contracts.

14 3. Offers to purchase.

15 4. Counteroffers to purchase.

16 5. Condition reports.

17 6. Option to purchase.

18 7. Rights of first refusal.

19 8. Letters of intent.

20 (c) All of the following provided to a purchaser of the property no later than the
21 sale's closing date:

22 1. Closing statements.

23 2. Rent rolls.

24 3. Leases.

25 4. Operating statements.

1 5. Stacking plans.

2 6. Title commitments.

3 7. Documentation of tenant delinquencies.

4 8. Service contracts.

5 9. Warranties.

6 10. Utility bills.

7 11. Environmental reports.

8 (d) Documents showing the cost of completed construction or completed
9 remodeling.

10 (e) Appraisals and feasibility studies.

11 (f) Documents provided to the federal securities and exchange commission in
12 which the property is listed or discussed.

13 (g) Fixed asset schedules on which the property is listed.

14 (h) Documents showing asset value of the property in the real estate portfolio
15 of a real estate investment trust.

16 **(2)** (a) The documents and information received by an assessor under sub. (1)
17 shall be the confidential records of the assessor's office and are not subject to the right
18 of inspection and copying under s. 19.35 (1). The municipality or county shall provide
19 by ordinance for the confidentiality of the documents and information and shall
20 provide exceptions for persons using the documents or information in the discharge
21 of the duties of their office or duties imposed by law or order of a court.

22 (b) Any document or information received by an assessor under sub. (1) shall
23 remain under seal before the board of assessors, board of review, department of
24 revenue, tax appeals commission, and court unless a court grants a request under

1 par. (c) or the person who provided the document or information to the assessor
2 consents to the unsealing.

3 (c) In an action under s. 74.37 or by petition to the circuit court, an assessor may
4 request the court to unseal any document or information received by an assessor
5 under sub. (1). A person objecting to an assessment under s. 70.47 (7) or seeking to
6 recover an amount under s. 74.37 may request a court to gain access to any document
7 or information received by an assessor under sub. (1) that was used to assess, or
8 defend the assessment of, the person's property or is otherwise relevant to the
9 property's assessment. The person who provided the document or information to the
10 assessor shall be provided notice of any motion or petition filed under this paragraph
11 and a reasonable opportunity to participate in any proceeding in which the motion
12 or petition is considered. In determining whether to grant a request under this
13 paragraph, the court shall balance the need to keep the document or information
14 confidential with the ability of the assessor to defend, and the person to challenge,
15 the assessment.

16 (3) A person to whom a request is made under sub. (1) is not obligated to
17 produce a document that is not in that person's possession.

18 (4) No document or information provided under this section is controlling on
19 the assessor in the assessment of the property. Nothing in this section limits the
20 authority of the assessor to seek additional evidence from any source as to the full
21 value of the property, but the failure of any person to respond to a request may not
22 limit the ability of the person to challenge an assessment in any venue. Nothing in
23 this section creates a presumption that any information or document described or
24 collected under this section is relevant to the assessment of property.

25 **SECTION 2.** 70.47 (2m) of the statutes is amended to read:

1 70.47 (2m) OPEN MEETINGS. All Except when the board of review determines
2 it necessary to meet in closed session to maintain the confidentiality of information
3 required to remain under seal under s. 70.325 (2), all meetings of the board of review
4 shall be publicly held and open to all citizens at all times. No and no formal action
5 of any kind shall may be introduced, deliberated upon, or adopted at any closed
6 session or meeting of a board of review.

7 **SECTION 3.** 70.47 (7) (af) of the statutes is amended to read:

8 70.47 (7) (af) No person upon whom a timely request was made under s. 70.325
9 (1) may appear offer a document in a valuation hearing before the board of review,
10 testify to the board by telephone or object to a valuation; if that valuation was made
11 by the assessor or the objector using the income method; unless no later than 7 days
12 before the first meeting of the board of review the person supplies to the assessor all
13 of the information about income and expenses, as specified in the manual under s.
14 73.03 (2a), that the assessor requests. The municipality or county shall provide by
15 ordinance for the confidentiality of information about income and expenses that is
16 provided to the assessor under this paragraph and shall provide exceptions for
17 persons using the information in the discharge of duties imposed by law or of the
18 duties of their office or by order of a court. The information that is provided under
19 this paragraph is not subject to the right of inspection and copying under s. 19.35 (1)
20 unless a court determines before the first meeting of the board of review that the
21 information is inaccurate if the document was in the person's possession at the time
22 the request was made, the document was the subject of the request, and the person
23 failed to provide the assessor with the document no later than March 31 of the year
24 the request was made.

25 **SECTION 4.** 70.47 (8) (d) of the statutes is amended to read:

