

1 **AN ACT** *to amend* 16.425 (3), 70.11 (intro.), 70.11 (4) and 70.337 (1) (intro.) and (2);
2 and *to create* 70.1103 of the statutes; **relating to:** requests for exemption from the
3 property tax by benevolent associations.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Tax Exemptions for Residential Property (Columbus Park).

Under current law by March 31 of each even-numbered year, the owner of every parcel of property that is exempt from property taxes under s. 70.11, stats., must file a form with the clerk of the taxation district where the property is located containing certain information. One of the items of information that is required is the owner’s estimate of the fair market value of the property on January 1 of the even-numbered year. The statute authorizes the assessor to review the estimate and adjust it if necessary to reflect the correct fair market value. The statute further provides that if the form is not received when due, the clerk must send the property owner a notice that the property will be appraised at the owner’s expense if a completed form is not received within 30 days. If the form is not received within 30 days, the statute states that the property must be appraised by either the taxation district assessor or a person hired by the taxation district to conduct the appraisal.

The clerk of each taxation district is required to deliver to the department of revenue (DOR), by July 1 of each even-numbered year, a form on which the clerk estimates the value of all tax-exempt property, classified by type of owner, within the taxation district. DOR uses this information to prepare a document required under s. 16.425, entitled “Summary of Tax Exemption Devices”.

Representatives of DOR told the special committee that DOR does not receive all of the statutorily required information from taxation clerks throughout the state for preparation of the “Summary of Tax Exemption Devices”. In 2002, 370 of the 1,900 taxation districts in the state did not provide the required information to DOR. DOR also stated that it appears that the value of much tax-exempt property is under reported by the owners of that property. For these reasons, it is difficult for DOR to

carry out its statutory duty under s. 16.425 to report on the approximate costs in lost revenue of various tax exemptions. The statute also directs DOR to report on the effectiveness of the tax exemptions in achieving the policy purposes of the tax exemptions.

Under current law, an owner of property that was exempt the previous year is not required to apply for a property tax exemption for the current year. Property is exempt if it was exempt the previous year and the owner files a form with the assessor. An application is required for property that was not exempt the previous year, but many properties were “grandfathered” in when the requirement to submit an initial application was first established, and therefore, for many exempt properties, no application was ever submitted. For those properties, the taxing jurisdiction has very little information about the property or the activities of the owner claiming the exemption.

This draft requires benevolent associations, including benevolent nursing homes and retirement homes for the aged to apply for a property tax exemption each year that it wishes to claim the exemption, as described in detail below. This draft also reorganizes s. 70.11 (4) to make it more readable and to place the types of property that are exempt under that section into separate statutory paragraphs. Under this reorganization, the exemption for benevolent associations, including benevolent nursing homes and retirement homes for the aged, is found at s. 70.11 (4) (c). Under the draft, a church or religious association that operates a nursing home or retirement home for the aged that wishes to claim an exemption must claim the exemption under s. 70.11 (4) (c) and is subject to the requirements described below.

The draft requires a benevolent association, including a benevolent nursing home or retirement home for the aged, to request a tax exemption from the assessor every year. The application must contain information regarding the activities of the owner that qualify the property for an exemption and an appraisal of the fair market value of the property. Specifically, by March 1 of each year, the owner of each parcel of property for which the owner wishes to claim an exemption under s. 70.11 (4) (c), as a benevolent association, including a benevolent nursing home or a retirement home for the aged, must file with the assessor of the taxation district in which the property is located a request, on a form prepared and approved by DOR, that the property be exempt from property taxes and the basis for that request. Along with the request, the owner must provide all of the following:

- (a) The name and address of the owner of the property.

(b) The acreage, legal description, and tax identification number of the property.

(c) The date of acquisition of the property.

(d) An appraisal of the fair market value of the property as of a date within the 18 months of the request for exemption performed by an appraiser certified under chapter 458 of the statutes.

(e) A statement indicating the amount of casualty insurance held on any improvements to the property.

(f) Information regarding the benevolent activities in which the organization engages or intends to engage at the property, including all of the following:

1. Information showing that there is a need within the community for the benevolent activity proposed to be provided and showing that the entire value of the tax exemption will be utilized directly by the entity to address that need.

2. A detailed description of all benevolent activities carried out by the entity in the previous year, if any, including the approximate dollar value of those activities.

3. A detailed description of all benevolent activities expected to be carried out at the property by the entity in the year for which the entity is requesting the exemption, including the approximate dollar value of those benevolent activities.

4. A description of the organizations or individuals who are eligible to be the recipients of benevolent activities of the entity and a statement of the expected value of the tax exemption to the beneficiaries of the entity's benevolence.

5. A description of the benefits provided to the members of the community at large by the entity's activity at the property.

(g) A statement indicating whether any portion of the property was leased to another person during the preceding 2 years. If the property was leased, the statement shall identify the portion of the property that was leased, identify the lessee, and describe the ways in which the lease payments were used by the owner of the property.

(h) Any other information requested by the assessor.

Upon receipt of a request for exemption, the assessor must determine whether the request includes all the required information. The assessor may not grant an exemption under s. 70.11 (4) (c) unless all of the required information is provided.

For every property granted an exemption under s. 70.11 (4) (c), the clerk of the taxation district must calculate the amount of property tax that would have been collected if the exemption had not been granted. This information must be made available to the public and must be provided to DOR. DOR must include a statewide compilation of this information in the summary of tax exemption devices that it prepares every even-numbered year.

Each entity requesting an exemption must pay a reasonable fee that is sufficient to defray the costs to the taxation district of reviewing the request for an exemption preparing the information for submittal to DOR. The governing body of the taxation district establishes the amount of the fee.

1 **SECTION 1.** 16.425 (3) of the statutes is amended to read:

2 16.425 (3) REPORT ON TAX EXEMPTION DEVICES. The department of revenue shall, in each
3 even-numbered year on the date prescribed for it by the secretary, furnish to the secretary a
4 report detailing the approximate costs in lost revenue, the policy purposes and to the extent
5 possible, indicators of effectiveness in achieving such purposes, for all state tax exemption
6 devices, including those based on the internal revenue code, in effect at the time of the report.
7 The report need relate only to chs. 71, 76 and 77 tax exemption devices and to property tax
8 exemptions for which reports are required under s. 70.337 and for which a request for
9 exemption is required under s. 70.1103. The report shall be prepared in such a manner as to
10 facilitate the making of comparisons with the information reported in s. 16.46 (1) to (6).

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

12 **70.11 Property exempted from taxation.** (intro.) The property described in this
13 section is exempted from general property taxes if the property is exempt under sub. (1), (2),
14 (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or
15 ownership did not change in a way that makes it taxable; if the property was taxable for the
16 previous year, the use, occupancy or ownership of the property changed in a way that makes
17 it exempt and its owner, on or before March 1, files with the assessor of the taxation district

1 where the property is located a form that the department of revenue prescribes or if the
2 property did not exist in the previous year and its owner, on or before March 1, files with the
3 assessor of the taxation district where the property is located a form that the department of
4 revenue prescribes. Property described under sub. (4) (c) is exempt only if the requirements
5 of s. 70.1103 are met with respect to that property. Leasing a part of the property described
6 in this section does not render it taxable if the lessor uses all of the leasehold income for
7 maintenance of the leased property or construction debt retirement of the leased property, or
8 both, and, except for residential housing, if the lessee would be exempt from taxation under
9 this chapter if it owned the property. Any lessor who claims that leased property is exempt
10 from taxation under this chapter shall, upon request by the tax assessor, provide records
11 relating to the lessor's use of the income from the leased property. Property exempted from
12 general property taxes is:

13 **SECTION 3.** 70.11 (4) of the statutes is amended to read:

14 70.11 (4) EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS;
15 HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES. Property owned and used exclusively by
16 ~~educational~~ any of the entities described in this subsection while such property is used not for
17 profit. Property that is exempt from taxation under this subsection and is leased remains
18 exempt from taxation only if, in addition to the requirements specified in the introductory
19 phrase of this section, the lessee does not discriminate on the basis of race. The amount of land
20 exempt under this subsection may not exceed 10 acres of land necessary for location and
21 convenience of buildings, except as provided in par. (b). This subsection does not include
22 property owned by an organization that is organized under s. 185.981 or ch. 611, 613, or 614
23 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service
24 health organization as defined in s. 609.01 (3) or by an organization that is issued a certificate

1 of authority under ch. 618 and that offers a health maintenance organization or a limited
2 service health organization or by any nonstock, nonprofit corporation which services
3 guaranteed student loans for others or on its own account.

4 (a) Educational institutions offering regular courses 6 months in the year; ~~or by~~
5 ~~churches.~~

6 (b) Churches or religious, ~~educational or benevolent~~ associations, ~~including benevolent~~
7 ~~nursing homes and retirement homes for the aged but not including an organization that is~~
8 ~~organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance~~
9 ~~organization as defined in s. 609.01 (2) or a limited service health organization as defined in~~
10 ~~s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that~~
11 ~~offers a health maintenance organization or a limited service health organization and not~~
12 ~~including property owned by any nonstock, nonprofit corporation which services guaranteed~~
13 ~~student loans for others or on its own account, and also including property owned and used~~
14 ~~for housing for pastors and their ordained assistants, members of religious orders and~~
15 ~~communities, and ordained teachers, whether or not contiguous to and a part of other property~~
16 ~~owned and used by such associations or churches; or by women's but not property used for~~
17 nursing homes, retirement homes for the aged, or low-income housing. Property owned by
18 churches or religious associations necessary for location and convenience of buildings, used
19 for educational purposes and not for profit, shall not be subject to the 10-acre limitation but
20 shall be subject to a 30-acre limitation.

21 (c) Benevolent associations, including benevolent nursing homes and retirement homes
22 for the aged.

23 (d) Women's clubs; ~~or by domestic,~~

24 (e) Domestic incorporated historical societies; ~~or by domestic,~~

1 (f) Domestic incorporated, free public library associations; ~~or by fraternal~~

2 (g) Fraternal societies operating under the lodge system (except university, college and
3 high school fraternities and sororities), ~~but not exceeding 10 acres of land necessary for~~
4 ~~location and convenience of buildings while such property is not used for profit. Property~~
5 ~~owned by churches or religious associations necessary for location and convenience of~~
6 ~~buildings, used for educational purposes and not for profit, shall not be subject to the 10-acre~~
7 ~~limitation but shall be subject to a 30-acre limitation. Property that is exempt from taxation~~
8 ~~under this subsection and is leased remains exempt from taxation only if, in addition to the~~
9 ~~requirements specified in the introductory phrase of this section, the lessee does not~~
10 ~~discriminate on the basis of race.~~

11 **SECTION 4.** 70.1103 of the statutes is created to read:

12 **70.1103 Request for exemption; benevolent associations.** (1) By March 1 of each
13 year, the owner of each parcel of property for which the owner wishes to claim an exemption
14 under s. 70.11 (4) (c) shall file with the assessor of the taxation district in which the property
15 is located a request, on a form prepared and approved by the department of revenue that the
16 property be exempt from property taxes and the basis for that request. Along with the request
17 for exemption, the owner shall provide all of the following:

18 (a) The name and address of the owner of the property.

19 (b) The acreage, legal description, and tax identification number of the property.

20 (c) The date of acquisition of the property.

21 (d) An appraisal of the fair market value of the property as of a date within the 18 months
22 of the request for exemption, performed by an appraiser certified under ch. 458.

23 (e) A statement indicating the amount of casualty insurance held on any improvements
24 to the property.

1 (f) Information regarding the benevolent activities in which the organization engages
2 or intends to engage at the property, including all of the following:

3 1. Information showing that there is a need within the community for the benevolent
4 activity proposed to be provided by the entity requesting the exemption and showing that the
5 entire value of the tax exemption will be utilized directly by the entity to address that need.

6 2. A detailed description of all benevolent activities carried out by the entity in the
7 previous year, if any, including the approximate dollar value of those activities.

8 3. A detailed description of all benevolent activities expected to be carried out at the
9 property by the entity in the year for which the entity is requesting the exemption, including
10 the approximate dollar value of those benevolent activities.

11 4. A description of the organizations or individuals who are eligible to be the recipients
12 of benevolent activities of the entity and a statement of the expected value of the tax exemption
13 to the beneficiaries of the entity's benevolence.

14 5. A description of the benefits provided to the members of the community at large, by
15 the entity's activity at the property.

16 (g) A statement indicating whether any portion of the property was leased to another
17 person during the preceding 2 years. If the property was leased, the statement shall identify
18 the portion of the property that was leased, identify the lessee and describe the ways in which
19 the lease payments were used by the owner of the property.

20 (h) Any other information requested by the assessor.

21 (2) Upon receipt of a request for exemption under this section, the assessor of the
22 taxation district shall determine whether the request includes all the information required
23 under this section. The assessor of the taxation district may not exempt any parcel of property

1 from the property tax under s. 70.11 (4) (c) unless all of the information required under this
2 section is provided by the entity requesting the exemption with respect to that parcel.

3 (3) For every property granted an exemption under s. 70.11 (4) (c), the clerk of the
4 taxation district shall calculate the amount of property tax that would have been collected from
5 the entity if the exemption had not been granted. This information shall be made available
6 to the public and shall be provided to the department of revenue under s. 70.337 (2). The
7 department of revenue shall include a statewide compilation of this information in the
8 summary of tax exemption devices prepared under s. 16.425.

9 (4) For each property granted an exemption under s. 70.11 (4) (c), the assessor of the
10 taxation district shall forward the information under sub. (1) (d) and (e) to the clerk of the
11 taxation district.

12 (5) Each entity requesting an exemption under this section shall pay a reasonable fee
13 that is sufficient to defray the costs to the taxation district of reviewing the request and of
14 preparing the information for submittal to the department of revenue under sub. (4). The
15 amount of the fee shall be established by the governing body of the taxation district.

16 **SECTION 5.** 70.337 (1) (intro.) and (2) of the statutes are amended to read:

17 70.337 (1) (intro.) By March 31 of each even-numbered year, the owner of each parcel
18 of property that is exempt under s. 70.11, except property that is described under s. 70.11 (4)
19 (c), shall file with the clerk of the taxation district in which the property is located a form
20 containing the following information:

21 (2) By July 1 of each even-numbered year, the clerk of each taxation district shall
22 complete and deliver to the department of revenue a form on which the clerk estimates the
23 value of tax-exempt property classified by type of owner, within the taxation district. For
24 property that is exempt under s. 70.11 (4) (c), the clerk shall utilize property value information

1 received in the request for exemption for the property under s. 70.1103. At the same time, the
2 clerk shall also deliver to the department of revenue the information under s. 70.1103 (3).

3 (END)