

1       **AN ACT** *to amend* 70.11 (intro.) and 70.11 (4) of the statutes; **relating to:** revision and  
2       elimination of the exemption from the property tax for certain property and the use  
3       of income from certain tax-exempt leased property.

*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).

**Revision and Reorganization of s. 70.11 (intro.) and (4), stats.**

Under current law, property owned and used exclusively by certain entities specified under s. 70.11 (4), stats., is exempt from the property tax while such property is used not for profit. This draft 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 subdivisions.

This draft also eliminates the property tax exemption for certain residential property owned by a benevolent association. Specifically, the draft revises the property tax exemption under current s. 70.11 (4) 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.

The types of property owned by a benevolent association that are exempt from the property tax under the draft are:

- a. Nursing homes licensed under s. 50.03.
- b. Community based residential facilities licensed under s. 50.03.
- c. Adult family homes certified under s. 50.032 or licensed under s. 50.033.
- d. Residential care apartment complexes registered or certified under s. 50.034.
- e. Domestic abuse shelters.
- f. Shelters for the homeless, including transitional housing facilities.

g. Housing for low-income persons that is operated in compliance with sections 3.01 and 3.02 (1), (2) and (3) of Internal Revenue Service (IRS) revenue procedure 96-32 or that is described in section 4.02 (4) or 4.02 (9) of that revenue procedure. Sections 3.01 and 3.02 (1), (2) and (3) of IRS revenue procedure 96-32 set forth income eligibility limits for federal low-income housing programs. Section 4.02 (4) refers to government housing programs designed to provide affordable housing. Section 4.02 (9) refers to programs designed to provide home ownership opportunities for families that cannot otherwise afford to purchase safe and decent housing.

h. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.

i. Residential housing for persons with permanent disabilities.

j. Property that is not residential housing.

Under the draft, 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 under a. through i., above.

Nonresidential property owned and used exclusively by a benevolent association remains exempt from the property tax.

Under the draft, nonresidential property owned by a church or religious association is exempt from the property tax. Residential property owned by a church or religious association is exempt if it is described in any of the categories listed under a. through i., above, or if it is used for housing for pastors or their ordained assistants, members of religious orders or communities, or ordained teachers.

These provisions first apply to property tax assessments as of January 1, 2007, which are payable in 2008.

### **Use of Leasehold Income**

Under current law, if property that is exempt from taxation under s. 70.11 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. [s. 70.11 (intro.), stats.] This is commonly referred to as the “rent use” requirement”.

The draft provides that leasing property described in s. 70.11 (4), stats., as residential housing does not render the property taxable if the property owner uses all of the lease income to further its benevolent or educational activities, or in the case of a church or religious association,

to further the activities of the church or association. In addition, the draft provides that a property owner may not discriminate based on race.

This provision applies retroactively to property tax assessments as of January 1, 2003, which were payable in 2004.

1       **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

2       **70.11 Property exempted from taxation.** (intro.) The property described in this  
3 section is exempted from general property taxes if the property is exempt under sub. (1), (2),  
4 (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or  
5 ownership did not change in a way that makes it taxable; if the property was taxable for the  
6 previous year, the use, occupancy or ownership of the property changed in a way that makes  
7 it exempt and its owner, on or before March 1, files with the assessor of the taxation district  
8 where the property is located a form that the department of revenue prescribes or if the  
9 property did not exist in the previous year and its owner, on or before March 1, files with the  
10 assessor of the taxation district where the property is located a form that the department of  
11 revenue prescribes. Leasing a part of the property described in this section does not render it  
12 taxable if, except for property described in sub. (4), the lessor uses all of the leasehold income  
13 for maintenance of the leased property or construction debt retirement of the leased property,  
14 or both, and, except for residential housing, if the lessee would be exempt from taxation under  
15 this chapter if it owned the property. Leasing property described in sub. (4) as residential  
16 housing does not render it taxable if the property owner uses all of the leasehold income to  
17 further the benevolent or educational activities of the owner, or, in the case of a church or  
18 religious association, to further the activities of the church or association. Any lessor who  
19 claims that leased property is exempt from taxation under this chapter shall, upon request by  
20 the tax assessor, provide records relating to the lessor's use of the income from the leased  
21 property. Property exempted from general property taxes is:

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

2           70.11 (4) EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS;  
3           HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES. Property owned and used exclusively by  
4           educational any of the entities described in this subsection while such property is used not for  
5           profit. Property that is exempt from taxation under this subsection and is leased remains  
6           exempt from taxation only if, in addition to the requirements specified in the introductory  
7           phrase of this section, the property owner and the lessee do not discriminate on the basis of  
8           race. The amount of land exempt under this subsection may not exceed 10 acres of land  
9           necessary for location and convenience of buildings, except as provided in par. (b). This  
10           subsection does not include property owned by an organization that is organized under s.  
11           185.981 or ch. 611, 613, or 614 and that offers a health maintenance organization as defined  
12           in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or by an  
13           organization that is issued a certificate of authority under ch. 618 and that offers a health  
14           maintenance organization or a limited service health organization or by any nonstock,  
15           nonprofit corporation which services guaranteed student loans for others or on its own  
16           account.

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

19           (b) Churches or religious, ~~educational or benevolent~~ associations, including benevolent  
20           nursing homes and retirement homes for the aged but not including an organization that is  
21           ~~organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance~~  
22           ~~organization as defined in s. 609.01 (2) or a limited service health organization as defined in~~  
23           ~~s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that~~  
24           ~~offers a health maintenance organization or a limited service health organization and not~~

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

10 (c) Benevolent associations, churches or religious associations if the property is any of  
11 the following:

- 12 1. A nursing home licensed under s. 50.03.
- 13 2. A community based residential facility licensed under s. 50.03.
- 14 3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
- 15 4. A residential care apartment complex registered or certified under s. 50.034.
- 16 5. A domestic abuse shelter.
- 17 6. A shelter for the homeless, including transitional housing facilities.
- 18 7. Housing for low-income persons that is operated in compliance with sections 3.01  
19 and 3.02 (1), (2) and (3) or that is provided as part of a program described in section 4.02 (4)  
20 or 4.02 (9) of Internal Revenue Service revenue procedure 96-32. The property owner shall  
21 provide the assessor an affidavit stating that the property meets this requirement. For the  
22 purposes of this subdivision, "project", when used in Internal Revenue Service revenue  
23 procedure 96-32, includes property located on more than one tax parcel, if the parcels are

1 owned or operated by the same person and are adjacent, separated only by a street or other  
2 public right-of-way, or within the same condominium development.

3 8. A residential facility, the primary purpose of which is to provide alcohol or other drug  
4 abuse treatment or services or housing for persons with, or who are recovering from, alcohol  
5 or other drug abuse problems.

6 9. Residential housing that is occupied by one or more persons with permanent  
7 disabilities, for whom evidence is available that demonstrates that these persons meet the  
8 medical definition of permanent disability used to determine eligibility for programs  
9 administered by the federal social security administration.

10 (cm) Benevolent associations if the property is nonresidential.

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

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

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

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

23 **SECTION 3. Initial applicability.**

