



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1143/1  
EKL:kjf&amn

**2019 BILL**

1     **AN ACT to repeal** 74.37 (2), 74.37 (3) (a), 74.37 (3) (b) and 74.37 (3) (c); **to**  
2     **renumber and amend** 74.37 (3) (d); **to amend** 70.47 (2), 70.47 (8m), 70.47  
3     (13), 70.85 (2), 74.37 (title), 74.37 (1), 74.37 (4) and 74.37 (5); and **to create**  
4     70.47 (12m) and 70.47 (13m) of the statutes; **relating to:** actions for excessive  
5     property tax assessments and dismissal of board of review proceedings.

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

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council Study Committee on Property Tax Assessment Practices. Under current law, a taxpayer who wishes to appeal a property tax assessment may choose among several different opportunities for appeal, beginning with an opportunity for informal discussion with the assessor during the "open book." Following the "open book," the taxpayer must appeal his or her assessment in a hearing before the local board of review, unless the board of review elects to waive the hearing requirement for the taxpayer. Following action by the board of review, a taxpayer may continue the appeal either before the department of revenue, under s. 70.85, Stats.; in circuit court under s.

**BILL**

70.47 (13), Stats.; or in circuit court under s. 74.37, Stats. The latter appeal under s. 74.37, Stats., is referred to as an action for excessive assessment.

Under the process for appeal as an excessive assessment, a taxpayer must first file a claim with the taxation district that collected the tax. If that claim is disallowed by the taxation district, the taxpayer may bring an action for excessive assessment in circuit court. Such an action must be filed within 90 days after disallowance of the claim by the taxation district, unless the board of review waives its hearing requirement, in which case the taxpayer's claim is deemed disallowed and the action under s. 74.37, Stats., must be filed within 60 days.

Under the bill, a taxpayer may bring a circuit court action for excessive assessment without first having to file a claim with the taxation district. Additionally, the requirements for timely filing of appeal are aligned, such that, under the bill, the taxpayer also has 90 days to file an action under s. 74.37, Stats., following waiver of a hearing by a board of review.

1           **SECTION 1.** 70.47 (2) of the statutes is amended to read:

2           70.47 (2) NOTICE. At least 15 days before the first session of the board of review,  
3 or at least 30 days before the first session of the board of review in any year in which  
4 the taxation district conducts a revaluation under s. 70.05, the clerk of the board  
5 shall publish a class 1 notice, place a notice in at least 3 public places and place a  
6 notice on the door of the town hall, of the village hall, of the council chambers or of  
7 the city hall of the time and place of the first meeting of the board under sub. (3) and  
8 of the requirements under sub. (7) (aa) and (ac) to (af). A taxpayer who shows that  
9 the clerk failed to publish the notice under this subsection may file ~~a claim~~ an action  
10 under s. 74.37.

11           **SECTION 2.** 70.47 (8m) of the statutes is amended to read:

12           70.47 (8m) HEARING WAIVER. The board may, at the request of the taxpayer or  
13 assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or,  
14 in a 1st class city, under sub. (16) and allow the taxpayer to have the taxpayer's  
15 assessment reviewed under sub. (13). For purposes of this subsection, the board  
16 shall submit the notice of decision under sub. (12) using the amount of the taxpayer's  
17 assessment as the finalized amount. ~~For purposes of this subsection, if the board~~  
18 ~~waives the hearing, the waiver disallows the taxpayer's claim on excessive~~

**BILL**

1 ~~assessment under s. 74.37 (3) and, notwithstanding~~ Notwithstanding the time  
2 period under s. 74.37 (3) ~~(d), if the board waives the hearing,~~ the taxpayer has ~~60~~ 90  
3 days from the notice of the hearing waiver in which to commence an action under s.  
4 74.37 (3) ~~(d)~~.

5 **SECTION 3.** 70.47 (12m) of the statutes is created to read:

6 70.47 **(12m)** DISMISSAL OF PROCEEDING. The board of review may dismiss a  
7 proceeding under this section upon a determination that the taxpayer has not  
8 participated in good faith in the proceeding. Prior to final adjournment, the board  
9 shall notify the taxpayer by personal delivery or by mail, return receipt required, of  
10 the dismissal and an explanation of appeal rights and procedures under sub. (13m).

11 **SECTION 4.** 70.47 (13) of the statutes is amended to read:

12 70.47 **(13)** CERTIORARI. Except as provided in s. sub. (13m) and ss. 70.85 and  
13 74.37, appeal from the determination of the board of review shall be by an action for  
14 certiorari commenced within 90 days after the taxpayer receives the notice under  
15 sub. (12). The action shall be given preference. If the court on the appeal finds any  
16 error in the proceedings of the board which renders the assessment or the  
17 proceedings void, it shall remand the assessment to the board for further proceedings  
18 in accordance with the court's determination and retain jurisdiction of the matter  
19 until the board has determined an assessment in accordance with the court's order.  
20 For this purpose, if final adjournment of the board occurs prior to the court's decision  
21 on the appeal, the court may order the governing body of the assessing authority to  
22 reconvene the board.

23 **SECTION 5.** 70.47 (13m) of the statutes is created to read:

24 70.47 **(13m)** APPEAL OF DISMISSAL OF PROCEEDING. Appeal from the  
25 determination of the board of review to dismiss a proceeding under sub. (12m) shall

**BILL**

1 be by an action for certiorari commenced within 90 days after the taxpayer receives  
2 the notice under sub. (12m). The action shall be given preference. If the court on the  
3 appeal finds any error in the proceedings of the board that renders the dismissal void,  
4 it shall issue an order resolving the appeal in favor of the taxpayer. If the court  
5 resolves an appeal in favor of the taxpayer, the taxpayer may commence an action  
6 for an excessive assessment under s. 74.37 and may not take any further action  
7 under this section. Notwithstanding the time period under s. 74.37 (3), the taxpayer  
8 has 90 days from the date of the court's order in which to commence an action under  
9 s. 74.37. If a court resolves an appeal under this subsection in favor of the board of  
10 review, the taxpayer may not make any further objection to, or appeal of, the  
11 assessment under this section or s. 74.37.

12 **SECTION 6.** 70.85 (2) of the statutes is amended to read:

13 70.85 (2) BOARD OF REVIEW; TIMING. A complaint under this section may be filed  
14 only if the taxpayer has contested the assessment of the property for that year under  
15 s. 70.47. The complaint shall be filed with the department of revenue within 20 days  
16 after receipt of the notice under s. 70.47 (12) of the board of review's determination  
17 or within 30 days after the date specified on the affidavit under s. 70.47 (12) if there  
18 is no return receipt.

19 **SECTION 7.** 74.37 (title) of the statutes is amended to read:

20 **74.37 (title) ~~Claim on~~ Action for an excessive assessment.**

21 **SECTION 8.** 74.37 (1) of the statutes is amended to read:

22 74.37 (1) DEFINITION. In this section, ~~a "claim for an excessive assessment" or~~  
23 an "action for an excessive assessment" means ~~a claim or an~~ an action, ~~respectively,~~ by  
24 an aggrieved person to recover that amount of general property tax imposed because  
25 the assessment of property was excessive.

**BILL**

1           **SECTION 9.** 74.37 (2) of the statutes is repealed.

2           **SECTION 10.** 74.37 (3) (a) of the statutes is repealed.

3           **SECTION 11.** 74.37 (3) (b) of the statutes is repealed.

4           **SECTION 12.** 74.37 (3) (c) of the statutes is repealed.

5           **SECTION 13.** 74.37 (3) (d) of the statutes is renumbered 74.37 (3) and amended  
6 to read:

7           **74.37 (3) ACTION ON CLAIM COMMENCEMENT.** ~~If the taxation district or county~~  
8 ~~disallows the claim, the claimant may commence an action in circuit court to recover~~  
9 ~~the amount of the claim not allowed. A person may commence an action for an~~  
10 ~~excessive assessment in circuit court against the taxation district, or county with a~~  
11 ~~county assessor system, that collected the tax. The action shall be commenced within~~  
12 ~~90 days after the claimant person receives notice by registered or certified mail that~~  
13 ~~the claim is disallowed under s. 70.47 (12).~~

14           **SECTION 14.** 74.37 (4) of the statutes is amended to read:

15           **74.37 (4) CONDITIONS.** (a) ~~No claim or~~ action for an excessive assessment may  
16 be brought under this section unless the procedures for objecting to assessments  
17 under s. 70.47, except under s. 70.47 (13), have been complied with. This paragraph  
18 does not apply if notice under s. 70.365 was not given.

19           (b) ~~No claim or~~ action for an excessive assessment may be brought or  
20 maintained under this section unless the tax for which the ~~claim~~ action is filed, or  
21 any authorized installment of the tax, is timely paid under s. 74.11 or 74.12.

22           (c) ~~No claim or~~ action for an excessive assessment may be brought or  
23 maintained under this section if the assessment of the property for the same year is  
24 contested under s. 70.47 (13) or 70.85. No assessment may be contested under s.

**BILL**

1 70.47 (13) or 70.85 if ~~a claim~~ an action is brought and maintained under this section  
2 based on the same assessment.

3 **SECTION 15.** 74.37 (5) of the statutes is amended to read:

4 74.37 (5) INTEREST. The amount of ~~a claim filed under sub. (2)~~ or an action  
5 commenced under sub. (3) may include interest at the average annual discount rate  
6 determined by the last auction of 6-month U.S. treasury bills before the objection per  
7 day for the period of time between the time when the tax was due and the date that  
8 the ~~claim~~ refund was paid.

9 (END)