



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0394/3
EKL:emw&kjf

2019 BILL

1 **AN ACT to amend** 70.47 (2m), 70.47 (7) (af) and 70.47 (13); and **to create** 70.325,
2 70.47 (12e) and 70.47 (13e) of the statutes; **relating to:** the submission of
3 information for commercial property tax assessments.

Analysis by the Legislative Reference Bureau

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

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. In Wisconsin, if a property tax assessor concludes that recent sales data is insufficient to allow assessment based on a sale of the subject property or recent sales of comparable properties, an assessor may rely on an "income approach" to estimate a property's value based on its income-generating potential. Under current law, an assessor may request that a person provide information regarding the income and expenses of a property in connection with board of review proceedings. No person may object to a valuation that relies on the income approach unless the person provided the assessor with the requested information at least seven days before the first meeting of the board of review.

The bill authorizes an assessor to request an enumerated list of documents at an earlier stage in the assessment process, and regardless of the valuation approach. Specifically, for commercial assessments, the bill authorizes an assessor, by January 15 of the current assessment year, to request a person to provide one or more of a specified

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list of documents that were executed, prepared, or submitted within the current assessment year or the three years prior to the current assessment year. The bill generally prohibits a person who has received such a request from objecting to a valuation before the board of review if the person did not provide the requested information by March 31 of the current assessment year.

If the person challenging an assessment does not possess the requested documents, the bill requires the person to make a good faith effort to obtain them. The bill authorizes a board of review to dismiss a person's objection if the person does not demonstrate such good faith effort, and it provides for limited judicial review of such dismissals.

The bill requires the Department of Revenue to prescribe a form listing the documents enumerated in the bill. Under the bill, the form and documents are confidential records of an assessor's office and must remain under seal before the board of review and on appeal. Finally, the bill provides that documents provided under the bill are not controlling and specifies that the bill does not limit an assessor's authority to seek additional evidence regarding a property's value.

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 documents that evidence

9 a commercial property's fair market value and shall require the person to declare

10 whether a document exists for the property to be assessed and, if so, to attach a copy

11 to the form. The assessor may request any of the listed documents that were

12 executed, prepared, or submitted within the current assessment year or the 3 years

13 prior to the current assessment year. The documents listed on the form shall include:

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

15 1. Itemized operating statements.

16 2. Vacancy losses.

17 3. Rent rolls.

18 4. Leases.

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- 1 5. Lease abstracts.
- 2 6. Federal tax form 8825.
- 3 (b) All of the following relating to a sale or potential sale of the property:
- 4 1. Purchase agreements.
- 5 2. Listing contracts.
- 6 3. Offers to purchase.
- 7 4. Counteroffers to purchase.
- 8 5. Condition reports.
- 9 6. Option to purchase.
- 10 7. Rights of first refusal.
- 11 8. Letters of intent.
- 12 (c) All of the following provided to a purchaser of the property no later than the
- 13 sale's closing date:
- 14 1. Closing statements.
- 15 2. Rent rolls.
- 16 3. Leases.
- 17 4. Operating statements.
- 18 5. Stacking plans.
- 19 6. Title commitments.
- 20 7. Documentation of tenant delinquencies.
- 21 8. Service contracts.
- 22 9. Warranties.
- 23 10. Utility bills.
- 24 11. Environmental reports.

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1 (d) Documents showing the cost of completed construction or completed
2 remodeling.

3 (e) Appraisals and feasibility studies.

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

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

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

9 **(2)** The form and documents provided under sub. (1) shall be the confidential
10 records of the assessor's office and shall remain under seal before the board of review
11 and on appeal. The municipality or county shall provide by ordinance for the
12 confidentiality of the information contained on the form and documents and shall
13 provide exceptions for persons using the information in the discharge of the duties
14 of their office or duties imposed by law or order of a court. The form and documents
15 provided under sub. (1) are not subject to the right of inspection and copying under
16 s. 19.35 (1).

17 **(3)** If any documents requested under sub. (1) are not in the possession of a
18 person challenging an assessment, the person shall make a good faith effort to obtain
19 the documents.

20 **(4)** No document or information provided under this section is controlling on
21 the assessor in the assessment of the property. Nothing in this section limits the
22 authority of the assessor to seek additional evidence as to the full value of the
23 property.

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

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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 under s. 70.325 (1) was
9 made may appear before the board of review, testify to the board by telephone or
10 object to a valuation; ~~if that valuation was made by the assessor or the objector using~~
11 ~~the income method; unless no later than 7 days before the first meeting of the board~~
12 ~~of review the person supplies to the assessor all of the information about income and~~
13 ~~expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests.~~
14 ~~The municipality or county shall provide by ordinance for the confidentiality of~~
15 ~~information about income and expenses that is provided to the assessor under this~~
16 ~~paragraph and shall provide exceptions for persons using the information in the~~
17 ~~discharge of duties imposed by law or of the duties of their office or by order of a court.~~
18 ~~The information that is provided under this paragraph is not subject to the right of~~
19 ~~inspection and copying under s. 19.35 (1) unless a court determines before the first~~
20 ~~meeting of the board of review that the information is inaccurate~~ the person provides
21 the assessor with the information requested under s. 70.325 (1) no later than March
22 31. This paragraph does not apply if the board of review, or a court under s. 70.47
23 (13e), determines that the person demonstrated a good faith effort to obtain
24 documents that are not in the person's possession as required under s. 70.325 (3).

25 **SECTION 4.** 70.47 (12e) of the statutes is created to read:

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1 70.47 (12e) DISMISSAL OF PROCEEDING. The board of review may dismiss a
2 proceeding under this section upon a determination that the taxpayer has not
3 participated in good faith in the proceeding as required under s. 70.325 (3). Prior to
4 final adjournment, the board shall notify the taxpayer by personal delivery or by
5 mail, return receipt required, of the dismissal and an explanation of appeal rights
6 and procedures under sub. (13e).

7 **SECTION 5.** 70.47 (13) of the statutes is amended to read:

8 70.47 (13) CERTIORARI. Except as provided in s. sub. (13e) and ss. 70.85 and
9 74.37, appeal from the determination of the board of review shall be by an action for
10 certiorari commenced within 90 days after the taxpayer receives the notice under
11 sub. (12). The action shall be given preference. If the court on the appeal finds any
12 error in the proceedings of the board which renders the assessment or the
13 proceedings void, it shall remand the assessment to the board for further proceedings
14 in accordance with the court's determination and retain jurisdiction of the matter
15 until the board has determined an assessment in accordance with the court's order.
16 For this purpose, if final adjournment of the board occurs prior to the court's decision
17 on the appeal, the court may order the governing body of the assessing authority to
18 reconvene the board.

19 **SECTION 6.** 70.47 (13e) of the statutes is created to read:

20 70.47 (13e) APPEAL OF DISMISSAL OF PROCEEDING. Appeal from the determination
21 of the board of review to dismiss a proceeding under sub. (12e) shall be by an action
22 for certiorari commenced within 90 days after the taxpayer receives the notice under
23 sub. (12e). The action shall be given preference. If the court on the appeal finds any
24 error in the proceedings of the board that renders the dismissal void, it shall remand
25 the matter to the board for further proceedings under this section. For this purpose,

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1 if final adjournment of the board occurs prior to the court's decision on the appeal,
2 the court may order the governing body of the assessing authority to reconvene the
3 board.

4 (END)