



State of Wisconsin  
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb2549/1  
JK:hmh:jf

**ASSEMBLY AMENDMENT 3,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 1**

March 14, 2002 - Offered by Representative ZIEGELBAUER.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 65, line 11: after "2003," insert "and before January 1, 2005,".

3 **2.** Page 65, line 12: delete "55%" and substitute "70%".

4 **3.** Page 65, line 13: on lines 13 and 14, delete "22.5%" and substitute "15%".

5 **4.** Page 65, line 14: after that line insert:

6 **"SECTION 170ed.** 71.04 (4) (bd) of the statutes is created to read:

7 71.04 (4) (bd) For taxable years beginning after December 31, 2004, and before  
8 January 1, 2006, an apportionment fraction composed of the sales factor under sub.  
9 (7) representing 80% of the fraction, a property factor under sub. (5) representing  
10 10% of the fraction, and a payroll factor under sub. (6) representing 10% of the  
11 fraction.

12 **SECTION 170eg.** 71.04 (4) (bg) of the statutes is created to read:

1           71.04 (4) (bg) For taxable years beginning after December 31, 2005, an  
2           apportionment fraction composed of the sales factor under sub. (7).”.

3           **5.** Page 65, line 16: delete “2003” and substitute “2002, and before January 1,  
4           2006,”.

5           **6.** Page 65, line 18: delete “55%” and substitute “more than 50%”.

6           **7.** Page 65, line 19: after the period insert “For taxable years beginning after  
7           December 31, 2005, the apportionment fraction for the remaining net income of a  
8           financial organization is composed of a sales factor, as determined by rule by the  
9           department.”.

10          **8.** Page 65, line 19: after that line insert:

11          “**SECTION 170fd.** 71.04 (4m) of the statutes is created to read:

12          71.04 (4m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years  
13          beginning before January 1, 2006, if both the numerator and the denominator of the  
14          sales factor under sub. (7) related to a taxpayer’s remaining net income are zero, the  
15          sales factor under sub. (7) is eliminated from the apportionment formula to  
16          determine the taxpayer’s remaining net income under sub. (4).

17          2. For taxable years beginning after December 31, 2005, if both the numerator  
18          and the denominator of the sales factor under sub. (7) related to a taxpayer’s  
19          remaining net income are zero, none of the taxpayer’s remaining net income is  
20          apportioned to this state.

21          (b) 1. For taxable years beginning before January 1, 2006, if the numerator of  
22          the sales factor under sub. (7) related to a taxpayer’s remaining net income is a  
23          negative number and the denominator of the sales factor under sub. (7) related to a

1 taxpayer's remaining net income is a positive number, a negative number, or zero,  
2 the sales factor under sub. (7) is zero.

3 2. For taxable years beginning after December 31, 2005, if the numerator of the  
4 sales factor under sub. (7) related to a taxpayer's remaining net income is a negative  
5 number and the denominator of the sales factor under sub. (7) related to a taxpayer's  
6 remaining net income is a positive number, a negative number, or zero, none of the  
7 taxpayer's remaining net income is apportioned to this state.

8 (c) 1. For taxable years beginning before January 1, 2006, if the numerator of  
9 the sales factor under sub. (7) related to a taxpayer's remaining net income is a  
10 positive number and the denominator of the sales factor under sub. (7) related to a  
11 taxpayer's remaining net income is zero or a negative number, the sales factor under  
12 sub. (7) is one.

13 2. For taxable years beginning after December 31, 2005, if the numerator of the  
14 sales factor under sub. (7) related to a taxpayer's remaining net income is a positive  
15 number and the denominator of the sales factor under sub. (7) related to a taxpayer's  
16 remaining net income is zero or a negative number, all of the taxpayer's remaining  
17 net income is apportioned to this state.

18 **SECTION 170fe.** 71.04 (5) (intro.) of the statutes is amended to read:

19 71.04 (5) PROPERTY FACTOR. (intro.) For purposes of sub. (4) and for taxable  
20 years beginning before January 1, 2006:

21 **SECTION 170fg.** 71.04 (6) (intro.) of the statutes is amended to read:

22 71.04 (6) PAYROLL FACTOR. (intro.) For purposes of sub. (4) and for taxable years  
23 beginning before January 1, 2006:

24 **SECTION 170fh.** 71.04 (7) (d) of the statutes is amended to read:

1           71.04 (7) (d) Sales, other than sales of tangible personal property, are in this  
2 state if the income-producing activity is performed in this state. If the  
3 income-producing activity is performed both in and outside this state the sales shall  
4 be divided between those states having jurisdiction to tax such business in  
5 proportion to the direct costs of performance incurred in each such state in rendering  
6 this service. Services performed in states which do not have jurisdiction to tax the  
7 business shall be deemed to have been performed in the state to which compensation  
8 is allocated by ~~sub. s. 71.04 (6), 1999 stats.~~”.

9           **9.** Page 66, line 15: after that line insert:

10           **“SECTION 170hd.** 71.04 (10) of the statutes is amended to read:

11           71.04 (10) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any nonresident  
12 individual or nonresident estate or trust engaged in business within and without the  
13 state of Wisconsin and required to apportion its income as provided in this section,  
14 it shall be shown to the satisfaction of the department of revenue that the use of any  
15 one of the 3 factors provided under sub. (4) gives an unreasonable or inequitable final  
16 average ratio because of the fact that such nonresident individual or nonresident  
17 estate or trust does not employ, to any appreciable extent in its trade or business in  
18 producing the income taxed, the factors made use of in obtaining such ratio, this  
19 factor may, with the approval of the department of revenue, be omitted in obtaining  
20 the final average ratio which is to be applied to the remaining net income. This  
21 subsection does not apply to taxable years beginning after December 31, 2005.”.

22           **10.** Page 88, line 4: after “2003,” insert “and before January 1, 2005,”.

23           **11.** Page 88, line 5: delete “55%” and substitute “70%”.

24           **12.** Page 88, line 6: on lines 6 and 7, delete “22.5%” and substitute “15%”.

1           **13.** Page 88, line 7: after that line insert:

2           “**SECTION 192gd.** 71.25 (6) (bd) of the statutes is created to read:

3           71.25 (6) (bd) For taxable years beginning after December 31, 2004, and before  
4           January 1, 2006, an apportionment fraction composed of the sales factor under sub.  
5           (7) representing 80% of the fraction, a property factor under sub. (9) representing  
6           10% of the fraction, and a payroll factor under sub. (8) representing 10% of the  
7           fraction.

8           **SECTION 192gg.** 71.25 (6) (bg) of the statutes is created to read:

9           71.25 (6) (bg) For taxable years beginning after December 31, 2005, an  
10          apportionment fraction composed of the sales factor under sub. (9).”.

11          **14.** Page 88, line 9: delete “2003” and substitute “2002, and before January  
12          1, 2006”.

13          **15.** Page 88, line 11: delete “55%” and substitute “more than 50%”.

14          **16.** Page 88, line 12: after the period insert “For taxable years beginning after  
15          December 31, 2005, the apportionment fraction for the remaining net income of a  
16          financial organization is composed of a sales factor, as determined by rule by the  
17          department.”.

18          **17.** Page 88, line 12: after that line insert:

19          “**SECTION 192hd.** 71.25 (6m) of the statutes is created to read:

20          71.25 (6m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years  
21          beginning before January 1, 2006, if both the numerator and the denominator of the  
22          sales factor under sub. (9) related to a taxpayer’s remaining net income are zero, the  
23          sales factor under sub. (9) is eliminated from the apportionment formula to  
24          determine the taxpayer’s remaining net income under sub. (6).

1           2. For taxable years beginning after December 31, 2005, if both the numerator  
2 and the denominator of the sales factor under sub. (9) related to a taxpayer's  
3 remaining net income are zero, none of the taxpayer's remaining net income is  
4 apportioned to this state.

5           (b) 1. For taxable years beginning before January 1, 2006, if the numerator of  
6 the sales factor under sub. (9) related to a taxpayer's remaining net income is a  
7 negative number and the denominator of the sales factor under sub. (9) related to a  
8 taxpayer's remaining net income is a positive number, a negative number, or zero,  
9 the sales factor under sub. (9) is zero.

10          2. For taxable years beginning after December 31, 2005, if the numerator of the  
11 sales factor under sub. (9) related to a taxpayer's remaining net income is a negative  
12 number and the denominator of the sales factor under sub. (9) related to a taxpayer's  
13 remaining net income is a positive number, a negative number, or zero, none of the  
14 taxpayer's remaining net income is apportioned to this state.

15          (c) 1. For taxable years beginning before January 1, 2006, if the numerator of  
16 the sales factor under sub. (9) related to a taxpayer's remaining net income is a  
17 positive number and the denominator of the sales factor under sub. (9) related to a  
18 taxpayer's remaining net income is zero or a negative number, the sales factor under  
19 sub. (9) is one.

20          2. For taxable years beginning after December 31, 2005, if the numerator of the  
21 sales factor under sub. (9) related to a taxpayer's remaining net income is a positive  
22 number and the denominator of the sales factor under sub. (9) related to a taxpayer's  
23 remaining net income is zero or a negative number, all of the taxpayer's remaining  
24 net income is apportioned to this state.

25           **SECTION 192hf.** 71.25 (7) (intro.) of the statutes is amended to read:

1           71.25 (7) PROPERTY FACTOR. (intro.) For purposes of sub. ~~(5)~~ (6) and for taxable  
2 years beginning before January 1, 2006:

3           **SECTION 192hg.** 71.25 (8) (intro.) of the statutes is amended to read:

4           71.25 (8) PAYROLL FACTOR. (intro.) For purposes of sub. ~~(5)~~ (6) and for taxable  
5 years beginning before January 1, 2006:

6           **SECTION 192hi.** 71.25 (9) (d) of the statutes is amended to read:

7           71.25 (9) (d) Sales, other than sales of tangible personal property, are in this  
8 state if the income-producing activity is performed in this state. If the  
9 income-producing activity is performed both in and outside this state the sales shall  
10 be divided between those states having jurisdiction to tax such business in  
11 proportion to the direct costs of performance incurred in each such state in rendering  
12 this service. Services performed in states which do not have jurisdiction to tax the  
13 business shall be deemed to have been performed in the state to which compensation  
14 is allocated by ~~sub. s. 71.25 (8), 1999 stats.~~”.

15           **18.** Page 89, line 8: after that line insert:

16           **“SECTION 192kd.** 71.25 (11) of the statutes is amended to read:

17           71.25 (11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation  
18 engaged in business within and without the state of Wisconsin and required to  
19 apportion its income as provided in sub. (6), it shall be shown to the satisfaction of  
20 the department of revenue that the use of any one of the 3 factors provided in sub.  
21 (6) gives an unreasonable or inequitable final average ratio because of the fact that  
22 such corporation does not employ, to any appreciable extent in its trade or business  
23 in producing the income taxed, the factors made use of in obtaining such ratio, this  
24 factor may, with the approval of the department of revenue, be omitted in obtaining

1 the final average ratio which is to be applied to the remaining net income. This  
2 subsection does not apply to taxable years beginning after December 31, 2005.”.

3 **19.** Page 137, line 20: delete lines 20 to 25 and substitute:

4 “71.45 (3d) PHASE IN; DOMESTIC INSURERS. (a) For taxable years beginning after  
5 December 31, 2003, and before January 1, 2005, a domestic insurer that is subject  
6 to apportionment under sub. (3) and this subsection shall multiply the net income  
7 figure derived by the application of sub. (2) by an apportionment fraction composed  
8 of the percentage under sub. (3) (a) representing 70% of the fraction and the  
9 percentage under sub. (3) (b) 1. representing 30% of the fraction.

10 (b) For taxable years beginning after December 31, 2004, and before January  
11 1, 2006, a domestic insurer that is subject to apportionment under sub. (3) and this  
12 subsection shall multiply the net income figure derived by the application of sub. (2)  
13 by an apportionment fraction composed of the percentage under sub. (3) (a)  
14 representing 80% of the fraction and the percentage under sub. (3) (b) 1. representing  
15 20% of the fraction.

16 (c) For taxable years beginning after December 31, 2005, a domestic insurer  
17 that is subject to apportionment under sub. (3) and this subsection shall multiply the  
18 net income figure derived by the application of sub. (2) by the percentage under sub.  
19 (3) (a).

20 **SECTION 231fd.** 71.45 (3e) of the statutes is created to read:

21 71.45 (3e) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years  
22 beginning before January 1, 2006, if both the numerator and the denominator used  
23 to determine the percentage under sub. (3) (a) related to a taxpayer’s net income are



1 zero, the percentage under sub. (3) (a) is eliminated from the apportionment formula  
2 to determine the taxpayer's income under sub. (3).

3 2. For taxable years beginning after December 31, 2005, if both the numerator  
4 and the denominator used to determine the percentage under sub. (3) (a) related to  
5 a taxpayer's net income are zero, none of the taxpayer's net income is apportioned  
6 to this state.

7 (b) 1. For taxable years beginning before January 1, 2006, if the numerator  
8 used to determine the percentage under sub. (3) (a) related to a taxpayer's net income  
9 is a negative number and the denominator used to determine the percentage under  
10 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,  
11 or zero, the percentage under sub. (3) (a) is zero.

12 2. For taxable years beginning after December 31, 2005, if the numerator used  
13 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is  
14 a negative number and the denominator used to determine the percentage under  
15 sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number,  
16 or zero, none of the taxpayer's net income is apportioned to this state.

17 (c) 1. For taxable years beginning before January 1, 2006, if the numerator used  
18 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is  
19 a positive number and the denominator used to determine the percentage under sub.  
20 (3) (a) related to a taxpayer's net income is zero or a negative number, the percentage  
21 under sub. (3) (a) is one.

22 2. For taxable years beginning after December 31, 2005, if the numerator used  
23 to determine the percentage under sub. (3) (a) related to a taxpayer's net income is  
24 a positive number and the denominator used to determine the percentage under sub.

1 (3) (a) related to a taxpayer's net income is zero or a negative number, all of the  
2 taxpayer's net income is apportioned to this state.”

3 (END)