



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0178/1
JK:jld&amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 387**

November 30, 2017 - Offered by Representative R. BROOKS.

1 **AN ACT** *to amend* 70.03 (1) and 70.32 (1); and *to create* 70.32 (1b) of the statutes;
2 **relating to:** property tax assessments regarding leased property.

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

3 **SECTION 1.** 70.03 (1) of the statutes is amended to read:

4 70.03 (1) In chs. 70 to 76, 78, and 79, “real property,” “real estate,” and “land”
5 include not only the land itself but all buildings and, fixtures, improvements ~~thereon,~~
6 ~~and all fixtures and, leases,~~ rights, and privileges appertaining thereto, including
7 assets that cannot be taxed separately as real property, but are inextricably
8 intertwined with the real property, enable the real property to achieve its highest and
9 best use, and are transferable to future owners, except as provided in sub. (2) and
10 except that for the purpose of time-share property, as defined in s. 707.02 (32), real
11 property does not include recurrent exclusive use and occupancy on a periodic basis

1 or other rights, including, but not limited to, membership rights, vacation services,
2 and club memberships. In this subsection, “lease” means a right in real estate that
3 is related primarily to the property and not to the labor, skill, or business acumen of
4 the property owner or tenant. In this subsection, “highest and best use” has the
5 meaning given in s. 70.32 (1).

6 **SECTION 2.** 70.32 (1) of the statutes is amended to read:

7 70.32 (1) Real property shall be valued by the assessor in the manner specified
8 in the Wisconsin property assessment manual provided under s. 73.03 (2a) at its
9 highest and best use from actual view or from the best information that the assessor
10 can practicably obtain, at the full value which could ordinarily be obtained therefor
11 at private sale. In determining the value, the assessor shall consider recent
12 arm’s-length sales of the property to be assessed if according to professionally
13 acceptable appraisal practices those sales conform to recent arm’s-length sales of
14 reasonably comparable property; recent arm’s-length sales of reasonably
15 comparable property; and all factors that, according to professionally acceptable
16 appraisal practices, affect the value of the property to be assessed. In this subsection,
17 “arm’s-length sale” means a sale between a willing buyer and willing seller, neither
18 being under compulsion to buy or sell and each being familiar with the attributes of
19 the property sold. In this subsection, “highest and best use” means the specific
20 current use of the property or a higher use for which the property may be used as of
21 the current assessment date, if the property is marketable for that use and the use
22 is legally permissible, physically possible, not highly speculative, and financially
23 feasible and provides the highest net return. When the current use of a property is
24 the highest and best use of that property, value in the current use equals full market

1 value. In this subsection, “legally permissible” does not include a conditional use
2 that has not been granted as of the assessment date.

3 **SECTION 3.** 70.32 (1b) of the statutes is created to read:

4 70.32 (1b) In determining the value of real property under sub. (1), the assessor
5 shall consider, as part of the valuation under sub. (1), any lease provisions and actual
6 rent pertaining to a property and affecting its value, including the lease provisions
7 and rent associated with a sale and leaseback of the property, if all such lease
8 provisions and rent are the result of an arm’s-length transaction involving persons
9 who are not related, as provided under section 267 of the Internal Revenue Code for
10 the year of the transaction. The assessor shall reconcile the results of such
11 consideration with the professionally acceptable appraisal practices regarding
12 reasonably comparable sales, the cost approach, and other methods specified in the
13 Wisconsin property assessment manual provided under s. 73.03 (2a). In this
14 subsection, an “arm’s-length transaction” means an agreement between willing
15 parties, neither being under compulsion to act and each being familiar with the
16 attributes of the property.

17 **SECTION 4. Initial applicability.**

18 (1) This act first applies to the property tax assessments as of January 1, 2018.

19 (END)