

HB 839

2015

1 A bill to be entitled
2 An act relating to property prepared for tax-exempt
3 use; creating s. 196.1955, F.S.; consolidating
4 provisions relating to obtaining an ad valorem
5 exemption for property owned by exempt organizations;
6 requiring the owner of an exempt organization to take
7 affirmative steps to demonstrate the property's exempt
8 use; authorizing the property appraiser to serve a
9 notice of tax lien on exempt property that is not in
10 actual exempt use after a specified time; providing
11 that the lien attaches to any property owned by the
12 organization identified in the notice of lien;
13 prohibiting a property appraiser from serving a notice
14 of tax lien on certain property being prepared for use
15 as a house of public worship; defining the term
16 "public worship"; amending s. 196.196, F.S.; deleting
17 provisions relating to the exemption as it applies to
18 public worship and affordable housing and provisions
19 that have been moved to s. 196.1955, F.S.; amending s.
20 196.198, F.S.; deleting provisions that have been
21 moved to s. 196.1955, F.S., relating to property owned
22 by an educational institution and used for an
23 educational purpose; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:
26

27 Section 1. Section 196.1955, Florida Statutes, is created
 28 to read:

29 196.1955 Preparing property for educational, literary,
 30 scientific, religious, or charitable use.-

31 (1) Property owned by an exempt entity is used for an
 32 exempt purpose if the owner has taken affirmative steps to
 33 prepare the property for an exempt educational, literary,
 34 scientific, religious, or charitable use and no portion of the
 35 property is being used for a nonexempt purpose. The term
 36 "affirmative steps" means environmental or land use permitting
 37 activities, creation of architectural plans or schematic
 38 drawings, land clearing or site preparation, construction or
 39 renovation activities, or other similar activities that
 40 demonstrate a commitment to prepare the property for an exempt
 41 use.

42 (2) (a) If property owned by an organization granted an
 43 exemption under this section is transferred for a purpose other
 44 than an exempt use or is not in actual exempt use within 5 years
 45 after the date the organization is granted an exemption, the
 46 property appraiser making such determination shall serve upon
 47 the organization that received the exemption a notice of intent
 48 to record in the public records of the county a notice of tax
 49 lien against any property owned by that organization in that
 50 county, and such property must be identified in the notice of
 51 tax lien. The organization owning such property is subject to
 52 the taxes otherwise due as a result of the failure to use the

53 property in an exempt manner plus 15 percent interest per annum.

54 1. The lien, when filed, attaches to any property
55 identified in the notice of tax lien owned by the organization
56 that received the exemption. If the organization no longer owns
57 property in the county but owns property in any other county in
58 the state, the property appraiser shall record in each such
59 county a notice of tax lien identifying the property owned by
60 the organization in each respective county, which shall become a
61 lien against the identified property.

62 2. Before such lien may be filed, the organization so
63 notified must be given 30 days to pay the taxes and interest.

64 3. If an exemption is improperly granted as a result of a
65 clerical mistake or an omission by the property appraiser, the
66 organization improperly receiving the exemption may not be
67 assessed interest.

68 4. The 5-year limitation specified in this subsection may
69 be extended if the holder of the exemption continues to take
70 affirmative steps to develop the property for the purposes
71 specified in this subsection.

72 (b) This subsection does not apply to property being
73 prepared for use as a house of public worship. The term "public
74 worship" means religious worship services and activities that
75 are incidental to religious worship services, such as
76 educational activities, parking, recreation, partaking of meals,
77 and fellowship.

78 Section 2. Subsections (3), (4), and (5) of section

79 | 196.196, Florida Statutes, are amended to read:

80 | 196.196 Determining whether property is entitled to
81 | charitable, religious, scientific, or literary exemption.—

82 | ~~(3) Property owned by an exempt organization is used for a~~
83 | ~~religious purpose if the institution has taken affirmative steps~~
84 | ~~to prepare the property for use as a house of public worship.~~
85 | ~~The term "affirmative steps" means environmental or land use~~
86 | ~~permitting activities, creation of architectural plans or~~
87 | ~~schematic drawings, land clearing or site preparation,~~
88 | ~~construction or renovation activities, or other similar~~
89 | ~~activities that demonstrate a commitment of the property to a~~
90 | ~~religious use as a house of public worship. For purposes of this~~
91 | ~~subsection, the term "public worship" means religious worship~~
92 | ~~services and those other activities that are incidental to~~
93 | ~~religious worship services, such as educational activities,~~
94 | ~~parking, recreation, partaking of meals, and fellowship.~~

95 | (3)(4) Except as otherwise provided in this section
96 | herein, property claimed as exempt for literary, scientific,
97 | religious, or charitable purposes which is used for profitmaking
98 | purposes is ~~shall be~~ subject to ad valorem taxation. Use of
99 | property for functions not requiring a business or occupational
100 | license conducted by the organization at its primary residence,
101 | the revenue of which is used wholly for exempt purposes, is
102 | ~~shall not be~~ considered profitmaking ~~profit-making~~. In this
103 | connection, the playing of bingo on such property ~~is~~ ~~shall not~~
104 | ~~be~~ considered as using such property in such a manner as would

105 impair its exempt status.

106 ~~(5)(a) Property owned by an exempt organization qualified~~
107 ~~as charitable under s. 501(c)(3) of the Internal Revenue Code is~~
108 ~~used for a charitable purpose if the organization has taken~~
109 ~~affirmative steps to prepare the property to provide affordable~~
110 ~~housing to persons or families that meet the extremely low-~~
111 ~~income, very-low-income, low-income, or moderate-income limits,~~
112 ~~as specified in s. 420.0004. The term "affirmative steps" means~~
113 ~~environmental or land use permitting activities, creation of~~
114 ~~architectural plans or schematic drawings, land clearing or site~~
115 ~~preparation, construction or renovation activities, or other~~
116 ~~similar activities that demonstrate a commitment of the property~~
117 ~~to providing affordable housing.~~

118 ~~(b)1. If property owned by an organization granted an~~
119 ~~exemption under this subsection is transferred for a purpose~~
120 ~~other than directly providing affordable homeownership or rental~~
121 ~~housing to persons or families who meet the extremely low-~~
122 ~~income, very-low-income, low-income, or moderate-income limits,~~
123 ~~as specified in s. 420.0004, or is not in actual use to provide~~
124 ~~such affordable housing within 5 years after the date the~~
125 ~~organization is granted the exemption, the property appraiser~~
126 ~~making such determination shall serve upon the organization that~~
127 ~~illegally or improperly received the exemption a notice of~~
128 ~~intent to record in the public records of the county a notice of~~
129 ~~tax lien against any property owned by that organization in the~~
130 ~~county, and such property shall be identified in the notice of~~

131 ~~tax lien. The organization owning such property is subject to~~
132 ~~the taxes otherwise due and owing as a result of the failure to~~
133 ~~use the property to provide affordable housing plus 15 percent~~
134 ~~interest per annum and a penalty of 50 percent of the taxes~~
135 ~~owed.~~

136 ~~2. Such lien, when filed, attaches to any property~~
137 ~~identified in the notice of tax lien owned by the organization~~
138 ~~that illegally or improperly received the exemption. If such~~
139 ~~organization no longer owns property in the county but owns~~
140 ~~property in any other county in the state, the property~~
141 ~~appraiser shall record in each such other county a notice of tax~~
142 ~~lien identifying the property owned by such organization in such~~
143 ~~county which shall become a lien against the identified~~
144 ~~property. Before any such lien may be filed, the organization so~~
145 ~~notified must be given 30 days to pay the taxes, penalties, and~~
146 ~~interest.~~

147 ~~3. If an exemption is improperly granted as a result of a~~
148 ~~clerical mistake or an omission by the property appraiser, the~~
149 ~~organization improperly receiving the exemption shall not be~~
150 ~~assessed a penalty or interest.~~

151 ~~4. The 5-year limitation specified in this subsection may~~
152 ~~be extended if the holder of the exemption continues to take~~
153 ~~affirmative steps to develop the property for the purposes~~
154 ~~specified in this subsection.~~

155 Section 3. Section 196.198, Florida Statutes, is amended
156 to read:

157 | 196.198 Educational property exemption.—

158 | (1) Educational institutions within this state and their
159 | property used by them or by any other exempt entity or
160 | educational institution exclusively for educational purposes are
161 | exempt from taxation.

162 | (a) Sheltered workshops providing rehabilitation and
163 | retraining of individuals who have disabilities and exempted by
164 | a certificate under s. (d) of the federal Fair Labor Standards
165 | Act of 1938, as amended, are declared wholly educational in
166 | purpose and are exempt from certification, accreditation, and
167 | membership requirements set forth in s. 196.012.

168 | (b) Those portions of property of college fraternities and
169 | sororities certified by the president of the college or
170 | university to the appropriate property appraiser as being
171 | essential to the educational process are exempt from ad valorem
172 | taxation.

173 | (c) The use of property by public fairs and expositions
174 | chartered by chapter 616 is presumed to be an educational use of
175 | such property and is exempt from ad valorem taxation to the
176 | extent of such use.

177 | (2) Property used exclusively for educational purposes
178 | shall be deemed owned by an educational institution if the
179 | entity owning 100 percent of the educational institution is
180 | owned by the identical persons who own the property, or if the
181 | entity owning 100 percent of the educational institution and the
182 | entity owning the property are owned by the identical natural

183 persons.

184 (a) Land, buildings, and other improvements to real
185 property used exclusively for educational purposes shall be
186 deemed owned by an educational institution if the entity owning
187 100 percent of the land is a nonprofit entity and the land is
188 used, under a ground lease or other contractual arrangement, by
189 an educational institution that owns the buildings and other
190 improvements to the real property, is a nonprofit entity under
191 s. 501(c)(3) of the Internal Revenue Code, and provides
192 education limited to students in prekindergarten through grade
193 8.

194 (b) If legal title to property is held by a governmental
195 agency that leases the property to a lessee, the property shall
196 be deemed to be owned by the governmental agency and used
197 exclusively for educational purposes if the governmental agency
198 continues to use such property exclusively for educational
199 purposes pursuant to a sublease or other contractual agreement
200 with that lessee.

201 (c) If the title to land is held by the trustee of an
202 irrevocable inter vivos trust and if the trust grantor owns 100
203 percent of the entity that owns an educational institution that
204 is using the land exclusively for educational purposes, the land
205 is deemed to be property owned by the educational institution
206 for purposes of this exemption. ~~Property owned by an educational~~
207 ~~institution shall be deemed to be used for an educational~~
208 ~~purpose if the institution has taken affirmative steps to~~

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209 ~~prepare the property for educational use. The term "affirmative~~
210 ~~steps" means environmental or land use permitting activities,~~
211 ~~creation of architectural plans or schematic drawings, land~~
212 ~~clearing or site preparation, construction or renovation~~
213 ~~activities, or other similar activities that demonstrate~~
214 ~~commitment of the property to an educational use.~~

215 Section 4. This act shall take effect July 1, 2015.