

1 A bill to be entitled
2 An act relating to ad valorem tax exemption;
3 amending s. 196.011, F.S.; authorizing the
4 granting of exemption to property entitled to a
5 charitable exemption for the 1994 tax year for
6 which application was not timely filed under
7 certain circumstances; providing for
8 cancellation of taxes assessed and outstanding
9 tax certificates; providing for expiration;
10 amending s. 196.195, F.S.; specifying that
11 certain nonprofit corporations are nonprofit
12 for purposes of determining eligibility for the
13 religious, literary, scientific, or charitable
14 ad valorem tax exemption and providing
15 requirements for establishing such status;
16 amending s. 196.196, F.S.; providing an
17 additional criterion for use in determining
18 whether property is being used for a
19 charitable, religious, scientific, or literary
20 purpose; providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Subsection (13) is added to section
25 196.011, Florida Statutes, to read:

26 196.011 Annual application required for exemption.--
27 (13) Notwithstanding subsection (1), when a property
28 owner that qualifies as a charitable organization under s.
29 501(c)(3) of the Internal Revenue Code is otherwise entitled
30 to a charitable exemption from ad valorem taxation for the
31 1994 tax year and fails to timely file an application for

1 exemption due to an inadvertent error, the property owner may
2 file an application for exemption with the property appraiser.
3 The property appraiser must consider the application and, if
4 he or she determines the owner of the property would have been
5 entitled to the exemption had the property owner timely
6 applied, the property appraiser must grant the exemption. Any
7 taxes assessed on such property shall be canceled and, if
8 paid, refunded. Any tax certificates outstanding on such
9 property shall be canceled and refund made pursuant to s.
10 197.432(10). This subsection shall expire 1 year after the
11 date it takes effect.

12 Section 2. Effective January 1, 1998, section 196.195,
13 Florida Statutes, is amended to read:

14 196.195 Determining profit or nonprofit status of
15 applicant.--

16 (1) Applicants requesting exemption shall supply such
17 fiscal and other records showing in reasonable detail the
18 financial condition, record of operation, and exempt and
19 nonexempt uses of the property, where appropriate, for the
20 immediately preceding fiscal year as are requested by the
21 property appraiser or the value adjustment board.

22 (2) In determining whether an applicant for a
23 religious, literary, scientific, or charitable exemption under
24 this chapter is a nonprofit or profitmaking venture or whether
25 the property is used for a profitmaking purpose, the following
26 criteria shall be applied:

27 (a) The reasonableness of any advances or payment
28 directly or indirectly by way of salary, fee, loan, gift,
29 bonus, gratuity, drawing account, commission, or otherwise
30 (except for reimbursements of advances for reasonable
31 out-of-pocket expenses incurred on behalf of the applicant) to

1 any person, company, or other entity directly or indirectly
2 controlled by the applicant or any officer, director, trustee,
3 member, or stockholder of the applicant;

4 (b) The reasonableness of any guaranty of a loan to,
5 or an obligation of, any officer, director, trustee, member,
6 or stockholder of the applicant or any entity directly or
7 indirectly controlled by such person, or which pays any
8 compensation to its officers, directors, trustees, members, or
9 stockholders for services rendered to or on behalf of the
10 applicant;

11 (c) The reasonableness of any contractual arrangement
12 by the applicant or any officer, director, trustee, member, or
13 stockholder of the applicant regarding rendition of services,
14 the provision of goods or supplies, the management of the
15 applicant, the construction or renovation of the property of
16 the applicant, the procurement of the real, personal, or
17 intangible property of the applicant, or other similar
18 financial interest in the affairs of the applicant;

19 (d) The reasonableness of payments made for salaries
20 for the operation of the applicant or for services, supplies
21 and materials used by the applicant, reserves for repair,
22 replacement, and depreciation of the property of the
23 applicant, payment of mortgages, liens, and encumbrances upon
24 the property of the applicant, or other purposes; and

25 (e) The reasonableness of charges made by the
26 applicant for any services rendered by it in relation to the
27 value of those services, and, if such charges exceed the value
28 of the services rendered, whether the excess is used to pay
29 maintenance and operational expenses in furthering its exempt
30 purpose or to provide services to persons unable to pay for
31 the services.

1 (3) Each applicant must affirmatively show that no
2 part of the subject property, or the proceeds of the sale,
3 lease, or other disposition thereof, will inure to the benefit
4 of its members, directors, or officers or any person or firm
5 operating for profit or for a nonexempt purpose.

6 (4) Notwithstanding the provisions of subsections (2)
7 and (3), a corporation organized as nonprofit under chapter
8 617 which has a valid consumer certificate of exemption
9 pursuant to s. 212.08(7)(o) and which has a valid exemption
10 from federal income tax under s. 501(c)(3) of the Internal
11 Revenue Code is nonprofit. Proof provided by a corporation of
12 its status as described in this subsection shall be sufficient
13 to establish the organization's nonprofit status and any
14 corporation providing such proof is not required to provide
15 any other information in order to establish its nonprofit
16 status.

17 ~~(5)~~(4) No application for exemption may be granted for
18 religious, literary, scientific, or charitable use of property
19 until the applicant has been found by the property appraiser
20 or, upon appeal, by the value adjustment board to be nonprofit
21 as defined in this section.

22 Section 3. Effective January 1, 1998, Paragraph (c) is
23 added to subsection (1) of section 196.196, Florida Statutes,
24 to read:

25 196.196 Determining whether property is entitled to
26 charitable, religious, scientific, or literary exemption.--

27 (1) In the determination of whether an applicant is
28 actually using all or a portion of its property predominantly
29 for a charitable, religious, scientific, or literary purpose,
30 the following criteria shall be applied:

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1 (c) The extent to which the property is used to
2 conduct activities which cause a corporation to qualify for a
3 consumer certificate of exemption under s. 212.08(7)(o). Such
4 activities shall be considered as part of the exempt purposes
5 of the applicant.

6 Section 4. Except as otherwise provided herein, this
7 act shall take effect upon becoming a law.

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