

By Senator King

8-1350-00

See CS/HB 395

1                                   A bill to be entitled  
2           An act relating to ad valorem tax exemptions;  
3           amending s. 196.012, F.S.; providing that, for  
4           purposes of determining eligibility for  
5           exemption, property leased to an exempt entity  
6           under a capital lease is owned by the entity;  
7           defining the term "capital lease"; amending s.  
8           196.198, F.S.; providing that property leased  
9           from a governmental agency is eligible for the  
10          exemption for educational property if the  
11          agency continues to use the property  
12          exclusively for educational purposes; providing  
13          an effective date.

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

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17           Section 1. Subsection (20) is added to section  
18 196.012, Florida Statutes, to read:

19           196.012 Definitions.--For the purpose of this chapter,  
20 the following terms are defined as follows, except where the  
21 context clearly indicates otherwise:

22           (20) For purposes of determining whether property is  
23 "owned" by an exempt entity, property leased to an entity  
24 under a capital lease is considered to be owned by that  
25 entity. A "capital lease" is a lease that meets at least one  
26 of the following criteria:

27           (a) Ownership of the property transfers to the lessee  
28 at the end of the lease term.

29           (b) The lease contains a bargain purchase option that  
30 allows the lessee, at his or her option, to buy the leased  
31 property for a price that is so much lower than the expected

1 fair market value of the property on the date the option  
2 becomes exercisable that the exercise of the option appears,  
3 at the inception of the lease, to be reasonably assured.

4 (c) The lease term is equal to 75 percent or more of  
5 the estimated useful economic life of the property.

6 (d) At the inception of the lease, the present value  
7 of the minimum lease payments is at least 90 percent of the  
8 fair market value of the leased property. As used in this  
9 paragraph, the term "minimum lease payments" has the same  
10 meaning as is contained in Statements and Interpretations of  
11 the Financial Accounting Standards Board in regard to  
12 capital-type leases. The interest rate used to calculate the  
13 present value shall be the Prime Rate published in the "Money  
14 Rates" section of the Wall Street Journal on the same date as  
15 the inception of the lease.

16 Section 2. Section 196.198, Florida Statutes, is  
17 amended to read:

18 196.198 Educational property exemption.--Educational  
19 institutions within this state and their property used by them  
20 or by any other exempt entity or educational institution  
21 exclusively for educational purposes shall be exempt from  
22 taxation. Sheltered workshops providing rehabilitation and  
23 retraining of disabled individuals and exempted by a  
24 certificate under s. (d) of the federal Fair Labor Standards  
25 Act of 1938, as amended, are declared wholly educational in  
26 purpose and shall be exempted from certification,  
27 accreditation, and membership requirements set forth in s.  
28 196.012. Those portions of property of college fraternities  
29 and sororities certified by the president of the college or  
30 university to the appropriate property appraiser as being  
31 essential to the educational process, shall be exempt from ad

1 valorem taxation. The use of property by public fairs and  
2 expositions chartered by chapter 616 is presumed to be an  
3 educational use of such property and shall be exempt from ad  
4 valorem taxation to the extent of such use. Property used  
5 exclusively for educational purposes shall be deemed owned by  
6 an educational institution if the entity owning 100 percent of  
7 the educational institution is owned by the identical persons  
8 who own the property. If legal title to property is held by a  
9 governmental agency that leases the property to a lessee, the  
10 property is considered to be owned by the governmental agency  
11 and used exclusively for educational purposes if the  
12 governmental agency continues to use the property exclusively  
13 for educational purposes pursuant to a sublease or other  
14 contractual agreement with that lessee. If the title to land  
15 is held by the trustee of an irrevocable inter vivos trust and  
16 if the trust grantor owns 100 percent of the entity that owns  
17 an educational institution that is using the land exclusively  
18 for educational purposes, the land is deemed to be property  
19 owned by the educational institution for purposes of this  
20 exemption. Property owned by an educational institution shall  
21 be deemed to be used for an educational purpose if the  
22 institution has taken affirmative steps to prepare the  
23 property for educational use. Affirmative steps means  
24 environmental or land use permitting activities, creation of  
25 architectural plans or schematic drawings, land clearing or  
26 site preparation, construction or renovation activities, or  
27 other similar activities that demonstrate commitment of the  
28 property to an educational use.

29 Section 3. This act shall take effect January 1, 2001.  
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SENATE SUMMARY

Provides that, for purposes of determining eligibility for an exemption from ad valorem taxes, property leased to an exempt entity is owned by the entity. Provides that property leased from a governmental agency is eligible for the exemption for educational property if the agency uses the property exclusively for educational purposes.