

By the Committee on Real Property & Probate and  
Representative Patterson

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 which is leased to an  
6           exempt entity under a capital lease shall be  
7           deemed "owned" by the entity; defining "capital  
8           lease"; amending s. 196.198, F.S.; providing  
9           that property leased from a governmental agency  
10          is eligible for the exemption for educational  
11          property if the agency continues to use the  
12          property exclusively for educational purposes;  
13          providing 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 if property is  
23 "owned" by an exempt entity, property leased to an entity  
24 under a capital lease shall be deemed to be owned by that  
25 entity. A "capital lease" is a lease which 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 which  
30 allows the lessee, at his or her option, to buy the leased  
31 property for a price which is sufficiently lower than the

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

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

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

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

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

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

30 Section 3. This act shall take effect January 1, 2001.

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