

1 A bill to be entitled
 2 An act relating to ad valorem tax exemptions for real
 3 property used for charitable purposes; amending s.
 4 196.192, F.S.; providing partial ad valorem tax exemptions
 5 for nonexempt owners of real property leased or
 6 gratuitously provided to exempt entities for exclusive use
 7 for charitable purposes; amending s. 196.195, F.S.;
 8 authorizing nonexempt owners of real property to apply for
 9 ad valorem tax exemptions relating to real property leased
 10 or gratuitously provided for charitable purposes;
 11 providing eligibility criteria for partial ad valorem tax
 12 exemptions relating to real property leased or
 13 gratuitously provided for charitable purposes; amending s.
 14 196.196, F.S.; providing an exception to the profitmaking
 15 prohibition applicable to claiming an ad valorem tax
 16 exemption relating to property used for charitable
 17 purposes; providing an effective date.

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

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 21 Section 1. Section 196.192, Florida Statutes, is amended
 22 to read:

23 196.192 Exemptions from ad valorem taxation.—Subject to
 24 the provisions of this chapter:

25 (1) All property owned by an exempt entity, including
 26 educational institutions, and used exclusively for exempt
 27 purposes shall be totally exempt from ad valorem taxation.

28 (2) All property owned by an exempt entity, including

29 | educational institutions, and used predominantly for exempt
 30 | purposes shall be exempted from ad valorem taxation to the
 31 | extent of the ratio that such predominant use bears to the
 32 | nonexempt use.

33 | (3) All real property owned by a nonexempt entity and
 34 | leased or provided gratuitously to an exempt charitable entity
 35 | for exclusive use of the property for exempt charitable purposes
 36 | shall be exempted from ad valorem taxation in an amount
 37 | equivalent to 50 percent of the amount exempted under subsection
 38 | (1).

39 | (4) All real property owned by a nonexempt entity a
 40 | portion of which is leased or provided gratuitously to an exempt
 41 | charitable entity for exclusive use of that portion of the
 42 | property for exempt charitable purposes shall be exempted from
 43 | ad valorem taxation to the extent of 50 percent of the ratio
 44 | that such use bears to the nonexempt use of other portions of
 45 | the property.

46 | (5)~~(3)~~ All tangible personal property loaned or leased by
 47 | a natural person, by a trust holding property for a natural
 48 | person, or by an exempt entity to an exempt entity for public
 49 | display or exhibition on a recurrent schedule is exempt from ad
 50 | valorem taxation if the property is loaned or leased for no
 51 | consideration or for nominal consideration.

52 |
 53 | For purposes of this section, each use to which the property is
 54 | being put must be considered in granting an exemption from ad
 55 | valorem taxation, including any economic use in addition to any
 56 | physical use. For purposes of this section, property owned by a

57 | limited liability company, the sole member of which is an exempt
 58 | entity, shall be treated as if the property were owned directly
 59 | by the exempt entity. This section does not apply in determining
 60 | the exemption for property owned by governmental units pursuant
 61 | to s. 196.199.

62 | Section 2. Section 196.195, Florida Statutes, is amended
 63 | to read:

64 | 196.195 Determining profit or nonprofit status of
 65 | applicant.—

66 | (1) Exempt and nonexempt entities applying for a total or
 67 | partial ~~Applicants requesting~~ exemption shall supply such fiscal
 68 | and other records showing in reasonable detail the financial
 69 | condition, record of operation, and exempt and nonexempt uses of
 70 | the property, where appropriate, for the immediately preceding
 71 | fiscal year as are requested by the property appraiser or the
 72 | value adjustment board.

73 | (2) In determining whether an exempt entity applying
 74 | ~~applicant~~ for a religious, literary, scientific, or charitable
 75 | exemption under this chapter is a nonprofit or profitmaking
 76 | venture or whether the property is used for a profitmaking
 77 | purpose, the following criteria shall be applied:

78 | (a) The reasonableness of any advances or payment directly
 79 | or indirectly by way of salary, fee, loan, gift, bonus,
 80 | gratuity, drawing account, commission, or otherwise (except for
 81 | reimbursements of advances for reasonable out-of-pocket expenses
 82 | incurred on behalf of the applicant) to any person, company, or
 83 | other entity directly or indirectly controlled by the applicant
 84 | or any officer, director, trustee, member, or stockholder of the

85 applicant;

86 (b) The reasonableness of any guaranty of a loan to, or an
87 obligation of, any officer, director, trustee, member, or
88 stockholder of the applicant or any entity directly or
89 indirectly controlled by such person, or which pays any
90 compensation to its officers, directors, trustees, members, or
91 stockholders for services rendered to or on behalf of the
92 applicant;

93 (c) The reasonableness of any contractual arrangement by
94 the applicant or any officer, director, trustee, member, or
95 stockholder of the applicant regarding rendition of services,
96 the provision of goods or supplies, the management of the
97 applicant, the construction or renovation of the property of the
98 applicant, the procurement of the real, personal, or intangible
99 property of the applicant, or other similar financial interest
100 in the affairs of the applicant;

101 (d) The reasonableness of payments made for salaries for
102 the operation of the applicant or for services, supplies and
103 materials used by the applicant, reserves for repair,
104 replacement, and depreciation of the property of the applicant,
105 payment of mortgages, liens, and encumbrances upon the property
106 of the applicant, or other purposes; and

107 (e) The reasonableness of charges made by the applicant
108 for any services rendered by it in relation to the value of
109 those services, and, if such charges exceed the value of the
110 services rendered, whether the excess is used to pay maintenance
111 and operational expenses in furthering its exempt purpose or to
112 provide services to persons unable to pay for the services.

113 (3) Each exempt entity applying for an exemption applicant
114 must affirmatively show that no part of the subject property, or
115 the proceeds of the sale, lease, or other disposition thereof,
116 will inure to the benefit of its members, directors, or officers
117 or any person or firm operating for profit or for a nonexempt
118 purpose.

119 (4) An ~~No~~ application submitted by an exempt entity for
120 exemption may not be granted for religious, literary,
121 scientific, or charitable use of property until the applicant
122 has been found by the property appraiser or, upon appeal, by the
123 value adjustment board to be nonprofit as defined in this
124 section.

125 (5) In determining whether a nonexempt entity applying for
126 a charitable exemption under this chapter is eligible for the
127 partial exemptions provided in s. 196.192(3) and (4), the
128 criteria in subsection (2) for determining whether an exempt
129 entity is a nonprofit or profitmaking venture or whether the
130 property is used for a profitmaking purpose shall be applied to
131 the exempt charitable lessee or donee.

132 (a) A nonexempt entity applying for a charitable exemption
133 must affirmatively show that no part of the subject property or
134 proceeds generated by the exclusive use of the property for
135 exempt charitable purposes or a portion of the property for
136 exempt charitable purposes will inure to the benefit of the
137 exempt entity's members, directors, or officers or any person or
138 firm operating for profit or for a nonexempt purpose, with the
139 exception of a reasonable rental payment to the nonexempt
140 entity.

141 (b) An application submitted by an exempt entity for a
 142 partial exemption provided in s. 196.192(3) or (4) may not be
 143 granted for charitable use of property until the exempt
 144 charitable lessee or donee has been found by the property
 145 appraiser or, upon appeal, by the value adjustment board to be
 146 nonprofit as defined in this section.

147 Section 3. Subsection (4) of section 196.196, Florida
 148 Statutes, is amended to read:

149 196.196 Determining whether property is entitled to
 150 charitable, religious, scientific, or literary exemption.-

151 (4) Except as otherwise provided in this section and in
 152 ss. 196.192 and 196.195 ~~herein~~, property claimed as exempt for
 153 literary, scientific, religious, or charitable purposes which is
 154 used for profitmaking purposes shall be subject to ad valorem
 155 taxation. Use of property for functions not requiring a business
 156 or occupational license conducted by the organization at its
 157 primary residence, the revenue of which is used wholly for
 158 exempt purposes, shall not be considered profit making. In this
 159 connection the playing of bingo on such property shall not be
 160 considered as using such property in such a manner as would
 161 impair its exempt status.

162 Section 4. This act shall take effect July 1, 2011.