

By Senator Richter

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

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

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

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

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

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

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

34 (3) All real property owned by a nonexempt entity and
35 leased or provided gratuitously to an exempt charitable entity
36 for exclusive use of the property for exempt charitable purposes
37 shall be exempted from ad valorem taxation in an amount
38 equivalent to 50 percent of the amount exempted under subsection
39 (1).

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

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

53
54 For purposes of this section, each use to which the property is
55 being put must be considered in granting an exemption from ad
56 valorem taxation, including any economic use in addition to any
57 physical use. For purposes of this section, property owned by a
58 limited liability company, the sole member of which is an exempt

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59 entity, shall be treated as if the property were owned directly
60 by the exempt entity. This section does not apply in determining
61 the exemption for property owned by governmental units pursuant
62 to s. 196.199.

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

65 196.195 Determining profit or nonprofit status of
66 applicant.—

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

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

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

87 (b) The reasonableness of any guaranty of a loan to, or an

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88 obligation of, any officer, director, trustee, member, or
89 stockholder of the applicant or any entity directly or
90 indirectly controlled by such person, or which pays any
91 compensation to its officers, directors, trustees, members, or
92 stockholders for services rendered to or on behalf of the
93 applicant;

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

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

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

114 (3) Each exempt entity applying for an exemption ~~applicant~~
115 must affirmatively show that no part of the subject property, or
116 the proceeds of the sale, lease, or other disposition thereof,

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117 will inure to the benefit of its members, directors, or officers
118 or any person or firm operating for profit or for a nonexempt
119 purpose.

120 (4) An ~~Ne~~ application submitted by an exempt entity for
121 exemption may not be granted for religious, literary,
122 scientific, or charitable use of property until the applicant
123 has been found by the property appraiser or, upon appeal, by the
124 value adjustment board to be nonprofit as defined in this
125 section.

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

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

142 (b) An application submitted by an exempt entity for a
143 partial exemption provided in s. 196.192(3) or (4) may not be
144 granted for charitable use of property until the exempt
145 charitable lessee or donee has been found by the property

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146 appraiser or, upon appeal, by the value adjustment board to be
147 nonprofit as defined in this section.

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

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

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

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