

By Senator Richter

37-00245-12

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

21  
22   Be It Enacted by the Legislature of the State of Florida:

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24           Section 1. Section 196.192, Florida Statutes, is amended to  
25   read:

26           196.192 Exemptions from ad valorem taxation.—Subject to the  
27   provisions of this chapter:

28           (1) All property owned by an exempt entity, including  
29   educational institutions, and used exclusively for exempt

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30 purposes shall be totally exempt from ad valorem taxation.

31 (2) All property owned by an exempt entity, including  
32 educational institutions, and used predominantly for exempt  
33 purposes shall be exempted from ad valorem taxation to the  
34 extent of the ratio that such predominant use bears to the  
35 nonexempt use.

36 (3) All real property owned by a nonexempt entity and  
37 leased or provided gratuitously to an exempt entity, including  
38 an educational institution, for exclusive use of the property  
39 for exempt educational, scientific, religious, or charitable  
40 purposes shall be exempted from ad valorem taxation in an amount  
41 equivalent to 50 percent of the amount that, if owned by the  
42 exempt entity, would be exempted under subsection (1).

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

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

57  
58 For purposes of this section, each use to which the property is

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59 being put must be considered in granting an exemption from ad  
60 valorem taxation, including any economic use in addition to any  
61 physical use. For purposes of this section, property owned by a  
62 limited liability company, the sole member of which is an exempt  
63 entity, shall be treated as if the property were owned directly  
64 by the exempt entity. This section does not apply in determining  
65 the exemption for property owned by governmental units pursuant  
66 to s. 196.199.

67 Section 2. Section 196.195, Florida Statutes, is amended to  
68 read:

69 196.195 Determining profit or nonprofit status of  
70 applicant.—

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

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

83 (a) The reasonableness of any advances or payment directly  
84 or indirectly by way of salary, fee, loan, gift, bonus,  
85 gratuity, drawing account, commission, or otherwise (except for  
86 reimbursements of advances for reasonable out-of-pocket expenses  
87 incurred on behalf of the applicant) to any person, company, or

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88 other entity directly or indirectly controlled by the applicant  
89 or any officer, director, trustee, member, or stockholder of the  
90 applicant;

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

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

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

112 (e) The reasonableness of charges made by the applicant for  
113 any services rendered by it in relation to the value of those  
114 services, and, if such charges exceed the value of the services  
115 rendered, whether the excess is used to pay maintenance and  
116 operational expenses in furthering its exempt purpose or to

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117 provide services to persons unable to pay for the services.

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

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

130 (5) In determining whether a nonexempt entity applying for  
131 an educational, scientific, religious or charitable exemption  
132 under this chapter is eligible for the partial exemptions  
133 provided in s. 196.192(3) and (4), the criteria in subsection  
134 (2) for determining whether an exempt entity is a nonprofit or  
135 profitmaking venture or whether the property is used for a  
136 profitmaking purpose shall be applied to the exempt lessee or  
137 donee, including an educational institution.

138 (a) A nonexempt entity applying for an educational,  
139 scientific, religious, or charitable exemption must  
140 affirmatively show that no part of the subject property or  
141 proceeds generated by the exclusive use of the property for  
142 exempt educational, scientific, religious, or charitable  
143 purposes or a portion of the property for exempt educational,  
144 scientific, religious, or charitable purposes will inure to the  
145 benefit of the exempt entity's or educational institution's

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146 members, directors, or officers or any person or firm operating  
147 for profit or for a nonexempt purpose, with the exception of a  
148 reasonable rental payment to the nonexempt entity.

149 (b) An application submitted by a nonexempt entity for a  
150 partial exemption provided in s. 196.192(3) or (4) may not be  
151 granted for educational, scientific, religious, or charitable  
152 use of property until the exempt lessee or donee, including an  
153 educational institution, has been found by the property  
154 appraiser or, upon appeal, by the value adjustment board to be  
155 nonprofit as defined in this section.

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

158 196.196 Determining whether property is entitled to  
159 charitable, religious, scientific, or literary exemption.-

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

171 Section 4. This act shall take effect July 1, 2012.