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576-04121-14

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to property prepared for a tax-exempt use; creating s. 196.1955, F.S.; consolidating provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; authorizing the property appraiser to serve a notice of tax lien on exempt property that is not in actual exempt use after a certain time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; amending s. 196.196, F.S.; deleting provisions relating to the exemption as it applies to public worship and affordable housing and provisions that have been moved to s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions relating to property owned by an educational institution and used for an educational purpose that is included in s. 196.1955, F.S.; providing an effective date.

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

Section 1. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.-



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28 (1) Property owned by an exempt organization is used for an
29 exempt purpose if the owner has taken affirmative steps to
30 prepare the property for an exempt educational, literary,
31 scientific, religious, or charitable use and no portion of the
32 property is being used for a nonexempt purpose. The term
33 "affirmative steps" means environmental or land use permitting
34 activities, creation of architectural plans or schematic
35 drawings, land clearing or site preparation, construction or
36 renovation activities, or other similar activities that
37 demonstrate a commitment to prepare the property for an exempt
38 use.

39 (2) If property owned by an organization granted an
40 exemption under this section is transferred for a purpose other
41 than an exempt use or is not in actual exempt use within 5 years
42 after the date the organization is granted an exemption, the
43 property appraiser making such determination shall serve upon
44 the organization that received the exemption a notice of intent
45 to record in the public records of the county a notice of tax
46 lien against any property owned by that organization in the
47 county, and such property must be identified in the notice of
48 tax lien. The organization owning such property is subject to
49 the taxes otherwise due and owing as a result of the failure to
50 use the property in an exempt manner plus 15 percent interest
51 per annum.

52 (a) The lien, when filed, attaches to any property
53 identified in the notice of tax lien owned by the organization
54 that received the exemption. If the organization no longer owns
55 property in the county but owns property in any other county in
56 the state, the property appraiser shall record in each such



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57 county a notice of tax lien identifying the property owned by
58 the organization in each respective county, which shall become a
59 lien against the identified property.

60 (b) Before such lien may be filed, the organization so
61 notified must be given 30 days to pay the taxes and interest.

62 (c) If an exemption is improperly granted as a result of a
63 clerical mistake or an omission by the property appraiser, the
64 organization improperly receiving the exemption may not be
65 assessed interest.

66 (d) The 5-year limitation specified in this subsection may
67 be extended if the holder of the exemption continues to take
68 affirmative steps to develop the property for the purposes
69 specified in this subsection.

70 Section 2. Subsections (3), (4), and (5) of section
71 196.196, Florida Statutes, are amended to read:

72 196.196 Determining whether property is entitled to
73 charitable, religious, scientific, or literary exemption.-

74 ~~(3) Property owned by an exempt organization is used for a~~
75 ~~religious purpose if the institution has taken affirmative steps~~
76 ~~to prepare the property for use as a house of public worship.~~
77 ~~The term "affirmative steps" means environmental or land use~~
78 ~~permitting activities, creation of architectural plans or~~
79 ~~schematic drawings, land clearing or site preparation,~~
80 ~~construction or renovation activities, or other similar~~
81 ~~activities that demonstrate a commitment of the property to a~~
82 ~~religious use as a house of public worship. For purposes of this~~
83 ~~subsection, the term "public worship" means religious worship~~
84 ~~services and those other activities that are incidental to~~
85 ~~religious worship services, such as educational activities,~~



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86 ~~parking, recreation, partaking of meals, and fellowship.~~

87 ~~(3)(4)~~ Except as otherwise provided in this section ~~herein~~,
88 property claimed as exempt for literary, scientific, religious,
89 or charitable purposes which is used for profitmaking purposes
90 is shall be subject to ad valorem taxation. Use of property for
91 functions not requiring a business or occupational license
92 conducted by the organization at its primary residence, the
93 revenue of which is used wholly for exempt purposes, is shall
94 not ~~be~~ considered profitmaking ~~profit-making~~. In this connection
95 the playing of bingo on such property is shall not ~~be~~ considered
96 as using such property in such a manner as would impair its
97 exempt status.

98 ~~(5)(a)~~ Property owned by an exempt organization qualified
99 as charitable under s. 501(c)(3) of the Internal Revenue Code is
100 used for a charitable purpose if the organization has taken
101 affirmative steps to prepare the property to provide affordable
102 housing to persons or families that meet the extremely-low-
103 income, very-low-income, low-income, or moderate-income limits,
104 as specified in s. 420.0004. The term "affirmative steps" means
105 environmental or land use permitting activities, creation of
106 architectural plans or schematic drawings, land clearing or site
107 preparation, construction or renovation activities, or other
108 similar activities that demonstrate a commitment of the property
109 to providing affordable housing.

110 ~~(b)1.~~ If property owned by an organization granted an
111 exemption under this subsection is transferred for a purpose
112 other than directly providing affordable homeownership or rental
113 housing to persons or families who meet the extremely-low-
114 income, very-low-income, low-income, or moderate-income limits,



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115 ~~as specified in s. 420.0004, or is not in actual use to provide~~
116 ~~such affordable housing within 5 years after the date the~~
117 ~~organization is granted the exemption, the property appraiser~~
118 ~~making such determination shall serve upon the organization that~~
119 ~~illegally or improperly received the exemption a notice of~~
120 ~~intent to record in the public records of the county a notice of~~
121 ~~tax lien against any property owned by that organization in the~~
122 ~~county, and such property shall be identified in the notice of~~
123 ~~tax lien. The organization owning such property is subject to~~
124 ~~the taxes otherwise due and owing as a result of the failure to~~
125 ~~use the property to provide affordable housing plus 15 percent~~
126 ~~interest per annum and a penalty of 50 percent of the taxes~~
127 ~~owed.~~

128 ~~2. Such lien, when filed, attaches to any property~~
129 ~~identified in the notice of tax lien owned by the organization~~
130 ~~that illegally or improperly received the exemption. If such~~
131 ~~organization no longer owns property in the county but owns~~
132 ~~property in any other county in the state, the property~~
133 ~~appraiser shall record in each such other county a notice of tax~~
134 ~~lien identifying the property owned by such organization in such~~
135 ~~county which shall become a lien against the identified~~
136 ~~property. Before any such lien may be filed, the organization so~~
137 ~~notified must be given 30 days to pay the taxes, penalties, and~~
138 ~~interest.~~

139 ~~3. If an exemption is improperly granted as a result of a~~
140 ~~clerical mistake or an omission by the property appraiser, the~~
141 ~~organization improperly receiving the exemption shall not be~~
142 ~~assessed a penalty or interest.~~

143 ~~4. The 5-year limitation specified in this subsection may~~



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144 ~~be extended if the holder of the exemption continues to take~~
145 ~~affirmative steps to develop the property for the purposes~~
146 ~~specified in this subsection.~~

147 Section 3. Section 196.198, Florida Statutes, is amended to
148 read:

149 196.198 Educational property exemption.—

150 (1) Educational institutions within this state and their
151 property used by them or by any other exempt entity or
152 educational institution exclusively for educational purposes are
153 exempt from taxation.

154 (a) Sheltered workshops providing rehabilitation and
155 retraining of individuals who have disabilities and exempted by
156 a certificate under s. (d) of the federal Fair Labor Standards
157 Act of 1938, as amended, are declared wholly educational in
158 purpose and are exempt from certification, accreditation, and
159 membership requirements set forth in s. 196.012.

160 (b) Those portions of property of college fraternities and
161 sororities certified by the president of the college or
162 university to the appropriate property appraiser as being
163 essential to the educational process are exempt from ad valorem
164 taxation.

165 (c) The use of property by public fairs and expositions
166 chartered by chapter 616 is presumed to be an educational use of
167 such property and is exempt from ad valorem taxation to the
168 extent of such use.

169 (2) Property used exclusively for educational purposes
170 shall be deemed owned by an educational institution if the
171 entity owning 100 percent of the educational institution is
172 owned by the identical persons who own the property, or if the



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173 entity owning 100 percent of the educational institution and the
174 entity owning the property are owned by the identical natural
175 persons.

176 (a) Land, buildings, and other improvements to real
177 property used exclusively for educational purposes shall be
178 deemed owned by an educational institution if the entity owning
179 100 percent of the land is a nonprofit entity and the land is
180 used, under a ground lease or other contractual arrangement, by
181 an educational institution that owns the buildings and other
182 improvements to the real property, is a nonprofit entity under
183 s. 501(c)(3) of the Internal Revenue Code, and provides
184 education limited to students in prekindergarten through grade
185 8.

186 (b) If legal title to property is held by a governmental
187 agency that leases the property to a lessee, the property shall
188 be deemed to be owned by the governmental agency and used
189 exclusively for educational purposes if the governmental agency
190 continues to use such property exclusively for educational
191 purposes pursuant to a sublease or other contractual agreement
192 with that lessee.

193 (c) If the title to land is held by the trustee of an
194 irrevocable inter vivos trust and if the trust grantor owns 100
195 percent of the entity that owns an educational institution that
196 is using the land exclusively for educational purposes, the land
197 is deemed to be property owned by the educational institution
198 for purposes of this exemption. ~~Property owned by an educational~~
199 ~~institution shall be deemed to be used for an educational~~
200 ~~purpose if the institution has taken affirmative steps to~~
201 ~~prepare the property for educational use. The term "affirmative~~



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202 ~~steps" means environmental or land use permitting activities,~~
203 ~~creation of architectural plans or schematic drawings, land~~
204 ~~clearing or site preparation, construction or renovation~~
205 ~~activities, or other similar activities that demonstrate~~
206 ~~commitment of the property to an educational use.~~

207 Section 4. This act shall take effect July 1, 2014.