

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 626

INTRODUCER: Appropriations Subcommittee on Finance and Tax; and Senator Hays and others

SUBJECT: Charitable Exemption from Ad Valorem Taxation

DATE: April 10, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Florida exempts property used predominantly for educational, literary, scientific, religious or charitable purposes from ad valorem taxes. The exemption also applies to property owned by an exempt organization while the organization is taking “affirmative steps” to prepare the property:

- To provide affordable housing to low-income residents,
- For educational use, or
- For religious use as a house of public worship.

CS/SB 626 expands the “affirmative steps” treatment to all property owned by an exempt organization and being prepared to be used for an educational, literary, scientific, religious or charitable purpose.

The Revenue Estimating Conference has determined that this bill will reduce local property taxes by \$1.2 million beginning in Fiscal Year 2015-2016.

II. Present Situation:

Property Tax Assessments

In Florida, local governments have the authority to impose ad valorem taxes; a state-level tax is not permitted.¹ Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value,² and the tax rate must be uniform throughout the taxing unit.³ Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.⁴ Section 193.011, F.S., requires property appraisers to consider eight factors in determining the property's just valuation.⁵

Property Entitled to Educational, Charitable, Religious, Scientific, or Literary Exemptions

Florida exempts property used for educational, literary, scientific, religious or charitable purposes from ad valorem tax.⁶ In determining whether the use of a property is exempt, the property appraiser must consider the nature and extent of the exempt activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.⁷ Only the portions of the property used predominantly for exempt purposes may be exempt from ad valorem taxation. If the property owned by an exempt entity is used exclusively for exempt purposes, it is totally exempt from ad valorem taxation.

Affirmative Steps

Preparing the Property. The exemption for some charitable, religious, and educational property also applies before the property is actually being used for an exempt purpose, but only while the property owner is taking "affirmative steps" to prepare the property for the exempt use. This treatment is provided to educational property,⁸ the portion of religious property where a public house of worship is being constructed,⁹ and charitable property on which affordable housing for low-income residents is being constructed.¹⁰

Definition of Affirmative Steps. The term "affirmative steps" is defined by law to mean:

- Environmental or land use permitting activities,
- Creation of architectural or schematic drawings,
- Land clearing or site preparation,
- Construction or renovation activities, or
- Other similar activities that demonstrate a commitment to an [exempt] use.¹¹

¹ FLA. CONST. art. VII, s. 1(a)

² FLA. CONST. art. VII, s. 4

³ FLA. CONST. art. VII, s. 2

⁴ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁵ See s. 193.011, F.S.

⁶ FLA. CONST. art. VII, s. 3(a). Florida provides other various exemptions. See generally FLA. CONST. art. VII, ss. 3 and 6.

⁷ Section 196.196(1)(a)-(b), F.S.

⁸ Section 196.198, F.S.

⁹ Section 196.196(3), F.S.

¹⁰ Section 196.196(5), F.S.

¹¹ Sections 196.196(3), 196.196(5), and 196.198, F.S.

Affordable Housing Limitations. The affirmative steps provision applicable to affordable housing has two limitations. If the owner 1) transfers the property for a purpose other than providing affordable housing, or 2) is not actually using the property to provide affordable housing within five years, the owner owes the tax that was avoided by claiming affirmative steps treatment, plus a penalty equal to 50 percent of the taxes owed and interest of 15 percent, per year.¹² If the owner fails to pay the required amounts within 30 days, the property appraiser must file liens on the owner's other properties.¹³ The property owner may avoid the 5-year limitation by demonstrating that he or she is continuing affirmative steps.¹⁴

III. Effect of Proposed Changes:

Section 1 creates s. 196.1955, F.S., to consolidate the current affirmative steps provisions into a single statute and extends the affirmative steps treatment to all property owned by an exempt organization and being prepared for an exempt educational, literary, scientific, religious, or charitable use.

The bill defines “affirmative steps” as it is defined in current law.

The bill extends the property transfer limitation and 5-year limitation – which currently relate solely to affordable housing – to all property that qualifies for affirmative steps treatment. The property transfer limitation and 5-year limitation are identical to current law, except that the 50 percent penalty does not apply.

Sections 2 and 3 delete the current affirmative steps provisions in ss. 196.196 and 196.198, F.S.

Section 4 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(b) of the Florida Constitution states that “[e]xcept upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that the municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.”

Article VII, section 18(d) of the Florida Constitution provides an exemption from the mandates provision for laws having an insignificant fiscal impact. Therefore, the bill may be exempt.

¹² Section 196.196(5)(b)1., F.S.

¹³ Section 196.196(5)(b), F.S.

¹⁴ Section 196.196(5)(b)4., F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that CS/SB 626 will reduce local property taxes by \$1.2 million annually, beginning in Fiscal Year 2015-2016.

B. Private Sector Impact:

Exempt organizations that own real property and take affirmative steps to prepare that property for an exempt purpose will receive an exemption from ad valorem taxation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 196.196 and 196.198.

The bill creates section 196.1955 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Finance and Tax on April 9, 2014:

The committee substitute:

- Expands the affirmative steps treatment to all educational, scientific, literary, religious and charitable property.

- Applies the property transfer limitation and 5-year limitation currently imposed on affordable housing properties using affirmative steps to all educational, scientific, literary, religious and charitable property, except that the 50 percent penalty is not imposed.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
