

**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.)

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

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BILL: SB 626

INTRODUCER: Senator Hays and others

SUBJECT: Charitable Exemption from Ad Valorem Taxation

DATE: April 8, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

Florida exempts property used for charitable purposes from ad valorem taxes. The exemption also applies to property owned by a charitable organization while the organization is taking “affirmative steps” to prepare the property to provide affordable housing to low-income residents.

SB 626 expands the “affirmative steps” treatment to all property owned by a charitable organization and being prepared to be used for a charitable purpose.

The Revenue Estimating Conference has not reviewed the fiscal impact of this bill. Staff anticipates that the bill will reduce local property taxes significantly.

**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.<sup>1</sup> Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value,<sup>2</sup> and the tax rate must be uniform throughout the taxing unit.<sup>3</sup> 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.<sup>4</sup> Section 193.011, F.S., requires property appraisers to consider eight factors in determining the property’s just valuation.<sup>5</sup>

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<sup>1</sup> FLA. CONST. art. VII, s. 1(a)

<sup>2</sup> FLA. CONST. art. VII, s. 4

<sup>3</sup> FLA. CONST. art. VII, s. 2

<sup>4</sup> 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).

<sup>5</sup> See s. 193.011, F.S.

## 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.<sup>6</sup> In determining whether the use of a property is exempt, the property appraiser must consider the nature and extent of the charitable or other qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other charitable or other qualifying entities.<sup>7</sup> Only the portions of the property used predominantly for the charitable or other qualified 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

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,<sup>8</sup> the portion of religious property where a public house of worship is being constructed,<sup>9</sup> and charitable property on which affordable housing for low-income residents is being constructed.<sup>10</sup>

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.<sup>11</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 196.196, F.S., to extend the “affirmative steps” treatment to all property owned by a charitable organization and being prepared for a charitable purpose, as defined in s. 196.012, F.S.

**Section 2** 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

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

<sup>7</sup> Section 196.196(1)(a)-(b), F.S.

<sup>8</sup> Section 196.198, F.S.

<sup>9</sup> Section 196.196(3), F.S.

<sup>10</sup> Section 196.196(5), F.S.

<sup>11</sup> Sections 196.196(3), 196.196(5), and 196.198, F.S.

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. The fiscal impact of this bill is unknown. The bill may not qualify for this exemption.

**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 not reviewed the provisions of SB 626. Staff anticipates that the bill will reduce local property taxes significantly.

**B. Private Sector Impact:**

Non-profit organizations that own real property and take affirmative steps to prepare that property for a charitable 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 section 196.196 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

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