

By Senator Hays

11-00667A-15

2015924__

1 A bill to be entitled
2 An act relating to property prepared for a tax-exempt
3 use; creating s. 196.1955, F.S.; consolidating and
4 revising provisions relating to obtaining an ad
5 valorem exemption for property owned by an exempt
6 organization, including the requirement that the owner
7 of an exempt organization take affirmative steps to
8 demonstrate an exempt use; authorizing the property
9 appraiser to serve a notice of tax lien on exempt
10 property that is not in actual exempt use after a
11 certain time; providing that the lien attaches to any
12 property owned by the organization identified in the
13 notice of lien; providing that the provisions
14 authorizing the tax lien do not apply to a house of
15 public worship; defining the term "public worship";
16 amending s. 196.196, F.S.; deleting provisions
17 relating to the exemption as it applies to public
18 worship and affordable housing and provisions that
19 have been moved to s. 196.1955, F.S.; amending s.
20 196.198, F.S.; deleting provisions relating to
21 property owned by an educational institution and used
22 for an educational purpose that is included in s.
23 196.1955, F.S.; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 196.1955, Florida Statutes, is created
28 to read:

29 196.1955 Preparing property for educational, literary,

11-00667A-15

2015924__

30 scientific, religious, or charitable use.-

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

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

55 1. The lien, when filed, attaches to any property
56 identified in the notice of tax lien owned by the organization
57 that received the exemption. If the organization no longer owns
58 property in the county but owns property in any other county in

11-00667A-15

2015924__

59 the state, the property appraiser shall record in each such
60 county a notice of tax lien identifying the property owned by
61 the organization in each respective county, which shall become a
62 lien against the identified property.

63 2. Before such lien may be filed, the organization so
64 notified must be given 30 days to pay the taxes and interest.

65 3. If an exemption is improperly granted as a result of a
66 clerical mistake or an omission by the property appraiser, the
67 organization improperly receiving the exemption may not be
68 assessed interest.

69 4. The 5-year limitation specified in this subsection may
70 be extended by the property appraiser if the holder of the
71 exemption continues to take affirmative steps to develop the
72 property for the purposes specified in this subsection.

73 (b) This subsection does not apply to property being
74 prepared for use as a house of public worship. The term "public
75 worship" means religious worship services and those activities
76 that are incidental to religious worship services, such as
77 educational activities, parking, recreation, partaking of meals
78 and fellowship.

79 Section 2. Subsections (3), (4), and (5) of section
80 196.196, Florida Statutes, are amended to read:

81 196.196 Determining whether property is entitled to
82 charitable, religious, scientific, or literary exemption.—

83 ~~(3) Property owned by an exempt organization is used for a~~
84 ~~religious purpose if the institution has taken affirmative steps~~
85 ~~to prepare the property for use as a house of public worship.~~
86 ~~The term "affirmative steps" means environmental or land use~~
87 ~~permitting activities, creation of architectural plans or~~

11-00667A-15

2015924__

88 ~~schematic drawings, land clearing or site preparation,~~
89 ~~construction or renovation activities, or other similar~~
90 ~~activities that demonstrate a commitment of the property to a~~
91 ~~religious use as a house of public worship. For purposes of this~~
92 ~~subsection, the term "public worship" means religious worship~~
93 ~~services and those other activities that are incidental to~~
94 ~~religious worship services, such as educational activities,~~
95 ~~parking, recreation, partaking of meals, and fellowship.~~

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

107 ~~(5)(a) Property owned by an exempt organization qualified~~
108 ~~as charitable under s. 501(c)(3) of the Internal Revenue Code is~~
109 ~~used for a charitable purpose if the organization has taken~~
110 ~~affirmative steps to prepare the property to provide affordable~~
111 ~~housing to persons or families that meet the extremely low-~~
112 ~~income, very-low-income, low-income, or moderate-income limits,~~
113 ~~as specified in s. 420.0004. The term "affirmative steps" means~~
114 ~~environmental or land use permitting activities, creation of~~
115 ~~architectural plans or schematic drawings, land clearing or site~~
116 ~~preparation, construction or renovation activities, or other~~

11-00667A-15

2015924__

117 ~~similar activities that demonstrate a commitment of the property~~
118 ~~to providing affordable housing.~~

119 ~~(b)1. If property owned by an organization granted an~~
120 ~~exemption under this subsection is transferred for a purpose~~
121 ~~other than directly providing affordable homeownership or rental~~
122 ~~housing to persons or families who meet the extremely low-~~
123 ~~income, very-low-income, low-income, or moderate-income limits,~~
124 ~~as specified in s. 420.0004, or is not in actual use to provide~~
125 ~~such affordable housing within 5 years after the date the~~
126 ~~organization is granted the exemption, the property appraiser~~
127 ~~making such determination shall serve upon the organization that~~
128 ~~illegally or improperly received the exemption a notice of~~
129 ~~intent to record in the public records of the county a notice of~~
130 ~~tax lien against any property owned by that organization in the~~
131 ~~county, and such property shall be identified in the notice of~~
132 ~~tax lien. The organization owning such property is subject to~~
133 ~~the taxes otherwise due and owing as a result of the failure to~~
134 ~~use the property to provide affordable housing plus 15 percent~~
135 ~~interest per annum and a penalty of 50 percent of the taxes~~
136 ~~owed.~~

137 ~~2. Such lien, when filed, attaches to any property~~
138 ~~identified in the notice of tax lien owned by the organization~~
139 ~~that illegally or improperly received the exemption. If such~~
140 ~~organization no longer owns property in the county but owns~~
141 ~~property in any other county in the state, the property~~
142 ~~appraiser shall record in each such other county a notice of tax~~
143 ~~lien identifying the property owned by such organization in such~~
144 ~~county which shall become a lien against the identified~~
145 ~~property. Before any such lien may be filed, the organization so~~

11-00667A-15

2015924__

146 notified ~~must be given 30 days to pay the taxes, penalties, and~~
147 ~~interest.~~

148 ~~3. If an exemption is improperly granted as a result of a~~
149 ~~clerical mistake or an omission by the property appraiser, the~~
150 ~~organization improperly receiving the exemption shall not be~~
151 ~~assessed a penalty or interest.~~

152 ~~4. The 5-year limitation specified in this subsection may~~
153 ~~be extended if the holder of the exemption continues to take~~
154 ~~affirmative steps to develop the property for the purposes~~
155 ~~specified in this subsection.~~

156 Section 3. Section 196.198, Florida Statutes, is amended to
157 read:

158 196.198 Educational property exemption.—

159 (1) Educational institutions within this state and their
160 property used by them or by any other exempt entity or
161 educational institution exclusively for educational purposes are
162 exempt from taxation.

163 (a) Sheltered workshops providing rehabilitation and
164 retraining of individuals who have disabilities and exempted by
165 a certificate under s. (d) of the federal Fair Labor Standards
166 Act of 1938, as amended, are declared wholly educational in
167 purpose and are exempt from certification, accreditation, and
168 membership requirements set forth in s. 196.012.

169 (b) Those portions of property of college fraternities and
170 sororities certified by the president of the college or
171 university to the appropriate property appraiser as being
172 essential to the educational process are exempt from ad valorem
173 taxation.

174 (c) The use of property by public fairs and expositions

11-00667A-15

2015924__

175 chartered by chapter 616 is presumed to be an educational use of
176 such property and is exempt from ad valorem taxation to the
177 extent of such use.

178 (2) Property used exclusively for educational purposes
179 shall be deemed owned by an educational institution if the
180 entity owning 100 percent of the educational institution is
181 owned by the identical persons who own the property, or if the
182 entity owning 100 percent of the educational institution and the
183 entity owning the property are owned by the identical natural
184 persons.

185 (a) Land, buildings, and other improvements to real
186 property used exclusively for educational purposes shall be
187 deemed owned by an educational institution if the entity owning
188 100 percent of the land is a nonprofit entity and the land is
189 used, under a ground lease or other contractual arrangement, by
190 an educational institution that owns the buildings and other
191 improvements to the real property, is a nonprofit entity under
192 s. 501(c)(3) of the Internal Revenue Code, and provides
193 education limited to students in prekindergarten through grade
194 8.

195 (b) If legal title to property is held by a governmental
196 agency that leases the property to a lessee, the property shall
197 be deemed to be owned by the governmental agency and used
198 exclusively for educational purposes if the governmental agency
199 continues to use such property exclusively for educational
200 purposes pursuant to a sublease or other contractual agreement
201 with that lessee.

202 (c) If the title to land is held by the trustee of an
203 irrevocable inter vivos trust and if the trust grantor owns 100

11-00667A-15

2015924__

204 percent of the entity that owns an educational institution that
205 is using the land exclusively for educational purposes, the land
206 is deemed to be property owned by the educational institution
207 for purposes of this exemption. ~~Property owned by an educational~~
208 ~~institution shall be deemed to be used for an educational~~
209 ~~purpose if the institution has taken affirmative steps to~~
210 ~~prepare the property for educational use. The term "affirmative~~
211 ~~steps" means environmental or land use permitting activities,~~
212 ~~creation of architectural plans or schematic drawings, land~~
213 ~~clearing or site preparation, construction or renovation~~
214 ~~activities, or other similar activities that demonstrate~~
215 ~~commitment of the property to an educational use.~~

216 Section 4. This act shall take effect July 1, 2015.