

By Senator Hays

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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 exempt use after a certain
11 time; providing that the lien attaches to any property
12 owned by the organization identified in the notice of
13 lien; providing that the provisions authorizing the
14 tax lien do not apply to a house of public worship;
15 defining the term "public worship"; amending s.
16 196.196, F.S.; deleting provisions relating to the
17 exemption as it applies to public worship and
18 affordable housing and provisions incorporated into s.
19 196.1955, F.S.; amending s. 196.198, F.S.; deleting
20 provisions relating to property owned by an
21 educational institution and used for an educational
22 purpose which are incorporated in s. 196.1955, F.S.;
23 amending ss. 196.197, 196.1978, 202.125, and 402.26,
24 F.S.; conforming cross-references; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 196.1955, Florida Statutes, is created

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30 to read:

31 196.1955 Property prepared for educational, literary,
32 scientific, religious, or charitable use.-

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

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

55 1. The notice of tax lien must identify all property in the
56 county owned by the organization and, when the lien is filed, it
57 attaches to that property. If the organization no longer owns
58 property in the county but owns property in another county in

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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 attaches to
62 the identified property.

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

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 prepare the
72 property for the purposes specified in this section.

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~~

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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 a use of ~~as using~~ such property that ~~in such a manner as~~ would
106 impair its 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~~

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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~~

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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

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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

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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. Subsection (2) of section 196.197, Florida
217 Statutes, is amended to read:

218 196.197 Additional provisions for exempting property used
219 by hospitals, nursing homes, and homes for special services.—In
220 addition to criteria for granting exemptions for charitable use
221 of property set forth in other sections of this chapter,
222 hospitals, nursing homes, and homes for special services shall
223 be exempt to the extent that they meet the following criteria:

224 (2) In determining the extent of exemption to be granted to
225 institutions licensed as hospitals, nursing homes, and homes for
226 special services, portions of the property leased as parking
227 lots or garages operated by private enterprise shall not be
228 deemed to be serving an exempt purpose and shall not be exempt
229 from taxation. Property or facilities which are leased to a
230 nonprofit corporation which provides direct medical services to
231 patients in a nonprofit or public hospital and qualifies under
232 ss. 196.1955 and ~~s.~~ 196.196 of this chapter are excluded and

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233 shall be exempt from taxation.

234 Section 5. Section 196.1978, Florida Statutes, is amended
235 to read:

236 196.1978 Affordable housing property exemption.—Property
237 used to provide affordable housing to eligible persons as
238 defined by s. 159.603 and natural persons or families meeting
239 the extremely-low-income, very-low-income, low-income, or
240 moderate-income limits specified in s. 420.0004, which is owned
241 entirely by a nonprofit entity that is a corporation not for
242 profit, qualified as charitable under s. 501(c)(3) of the
243 Internal Revenue Code and in compliance with Rev. Proc. 96-32,
244 1996-1 C.B. 717, is considered property owned by an exempt
245 entity and used for a charitable purpose, and those portions of
246 the affordable housing property that provide housing to natural
247 persons or families classified as extremely low income, very low
248 income, low income, or moderate income under s. 420.0004 are
249 exempt from ad valorem taxation to the extent authorized under
250 ss. 196.1955 and ~~s. 196.196~~. All property identified in this
251 section must comply with the criteria provided under s. 196.195
252 for determining exempt status and applied by property appraisers
253 on an annual basis. The Legislature intends that any property
254 owned by a limited liability company which is disregarded as an
255 entity for federal income tax purposes pursuant to Treasury
256 Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole
257 member.

258 Section 6. Paragraph (c) of subsection (4) of section
259 202.125, Florida Statutes, is amended to read:

260 202.125 Sales of communications services; specified
261 exemptions.—

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262 (4) The sale of communications services to a home for the
 263 aged, religious institution or educational institution that is
 264 exempt from federal income tax under s. 501(c)(3) of the
 265 Internal Revenue Code, or by a religious institution that is
 266 exempt from federal income tax under s. 501(c)(3) of the
 267 Internal Revenue Code having an established physical place for
 268 worship at which nonprofit religious services and activities are
 269 regularly conducted and carried on, is exempt from the taxes
 270 imposed or administered pursuant to ss. 202.12 and 202.19. As
 271 used in this subsection, the term:

272 (c) "Home for the aged" includes any nonprofit corporation:

273 1. In which at least 75 percent of the occupants are 62
 274 years of age or older or totally and permanently disabled; which
 275 qualifies for an ad valorem property tax exemption under ss.
 276 196.1955 and ~~s.~~ 196.196 or ~~r.~~ s. 196.197~~r.~~ or s. 196.1975; and
 277 which is exempt from the sales tax imposed under chapter 212.

278 2. Licensed as a nursing home under chapter 400 or an
 279 assisted living facility under chapter 429 and which is exempt
 280 from the sales tax imposed under chapter 212.

281 Section 7. Subsection (6) of section 402.26, Florida
 282 Statutes, is amended to read:

283 402.26 Child care; legislative intent.—

284 (6) It is the intent of the Legislature that a child care
 285 facility licensed pursuant to s. 402.305 or a child care
 286 facility exempt from licensing pursuant to s. 402.316, that
 287 achieves Gold Seal Quality status pursuant to s. 402.281, be
 288 considered an educational institution for the purpose of
 289 qualifying for exemption from ad valorem tax pursuant to ss.
 290 196.1955 and ~~s.~~ 196.198.

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Section 8. This act shall take effect July 1, 2016.