

Committee Substitute for House Bill No. 29

An act relating to ad valorem tax exemption; amending s. 196.011, F.S.; authorizing the granting of exemption to property entitled to a charitable exemption for the 1994 tax year for which application was not timely filed under certain circumstances; providing for cancellation of taxes assessed and outstanding tax certificates; providing for expiration; amending s. 196.195, F.S.; specifying that certain nonprofit corporations are nonprofit for purposes of determining eligibility for the religious, literary, scientific, or charitable ad valorem tax exemption and providing requirements for establishing such status; amending s. 196.196, F.S.; providing an additional criterion for use in determining whether property is being used for a charitable, religious, scientific, or literary purpose; providing an effective date.

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

Section 1. Subsection (13) is added to section 196.011, Florida Statutes, to read:

196.011 Annual application required for exemption.—

(13) Notwithstanding subsection (1), when a property owner that qualifies as a charitable organization under s. 501(c)(3) of the Internal Revenue Code is otherwise entitled to a charitable exemption from ad valorem taxation for the 1994 tax year and fails to timely file an application for exemption due to an inadvertent error, the property owner may file an application for exemption with the property appraiser. The property appraiser must consider the application and, if he or she determines the owner of the property would have been entitled to the exemption had the property owner timely applied, the property appraiser must grant the exemption. Any taxes assessed on such property shall be canceled and, if paid, refunded. Any tax certificates outstanding on such property shall be canceled and refund made pursuant to s. 197.432(10). This subsection shall expire 1 year after the date it takes effect.

Section 2. Effective January 1, 1998, section 196.195, Florida Statutes, is amended to read:

196.195 Determining profit or nonprofit status of applicant.—

(1) Applicants requesting exemption shall supply such fiscal and other records showing in reasonable detail the financial condition, record of operation, and exempt and nonexempt uses of the property, where appropriate, for the immediately preceding fiscal year as are requested by the property appraiser or the value adjustment board.

(2) In determining whether an applicant for a religious, literary, scientific, or charitable exemption under this chapter is a nonprofit or profitmak-

ing venture or whether the property is used for a profitmaking purpose, the following criteria shall be applied:

(a) The reasonableness of any advances or payment directly or indirectly by way of salary, fee, loan, gift, bonus, gratuity, drawing account, commission, or otherwise (except for reimbursements of advances for reasonable out-of-pocket expenses incurred on behalf of the applicant) to any person, company, or other entity directly or indirectly controlled by the applicant or any officer, director, trustee, member, or stockholder of the applicant;

(b) The reasonableness of any guaranty of a loan to, or an obligation of, any officer, director, trustee, member, or stockholder of the applicant or any entity directly or indirectly controlled by such person, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the applicant;

(c) The reasonableness of any contractual arrangement by the applicant or any officer, director, trustee, member, or stockholder of the applicant regarding rendition of services, the provision of goods or supplies, the management of the applicant, the construction or renovation of the property of the applicant, the procurement of the real, personal, or intangible property of the applicant, or other similar financial interest in the affairs of the applicant;

(d) The reasonableness of payments made for salaries for the operation of the applicant or for services, supplies and materials used by the applicant, reserves for repair, replacement, and depreciation of the property of the applicant, payment of mortgages, liens, and encumbrances upon the property of the applicant, or other purposes; and

(e) The reasonableness of charges made by the applicant for any services rendered by it in relation to the value of those services, and, if such charges exceed the value of the services rendered, whether the excess is used to pay maintenance and operational expenses in furthering its exempt purpose or to provide services to persons unable to pay for the services.

(3) Each applicant must affirmatively show that no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.

(4) Notwithstanding the provisions of subsections (2) and (3), a corporation organized as nonprofit under chapter 617 which has a valid consumer certificate of exemption pursuant to s. 212.08(7)(o) and which has a valid exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code is nonprofit. Proof provided by a corporation of its status as described in this subsection shall be sufficient to establish the organization's nonprofit status and any corporation providing such proof is not required to provide any other information in order to establish its nonprofit status.

~~(5)~~(4) No application for exemption may be granted for religious, literary, scientific, or charitable use of property until the applicant has been found

by the property appraiser or, upon appeal, by the value adjustment board to be nonprofit as defined in this section.

Section 3. Effective January 1, 1998, Paragraph (c) is added to subsection (1) of section 196.196, Florida Statutes, to read:

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

(1) In the determination of whether an applicant is actually using all or a portion of its property predominantly for a charitable, religious, scientific, or literary purpose, the following criteria shall be applied:

(c) The extent to which the property is used to conduct activities which cause a corporation to qualify for a consumer certificate of exemption under s. 212.08(7)(o). Such activities shall be considered as part of the exempt purposes of the applicant.

Section 4. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Became a law without the Governor's approval May 29, 1998.

Filed in Office Secretary of State May 28, 1998.