

1988

Session Law 88-102

Florida Senate & House of Representatives

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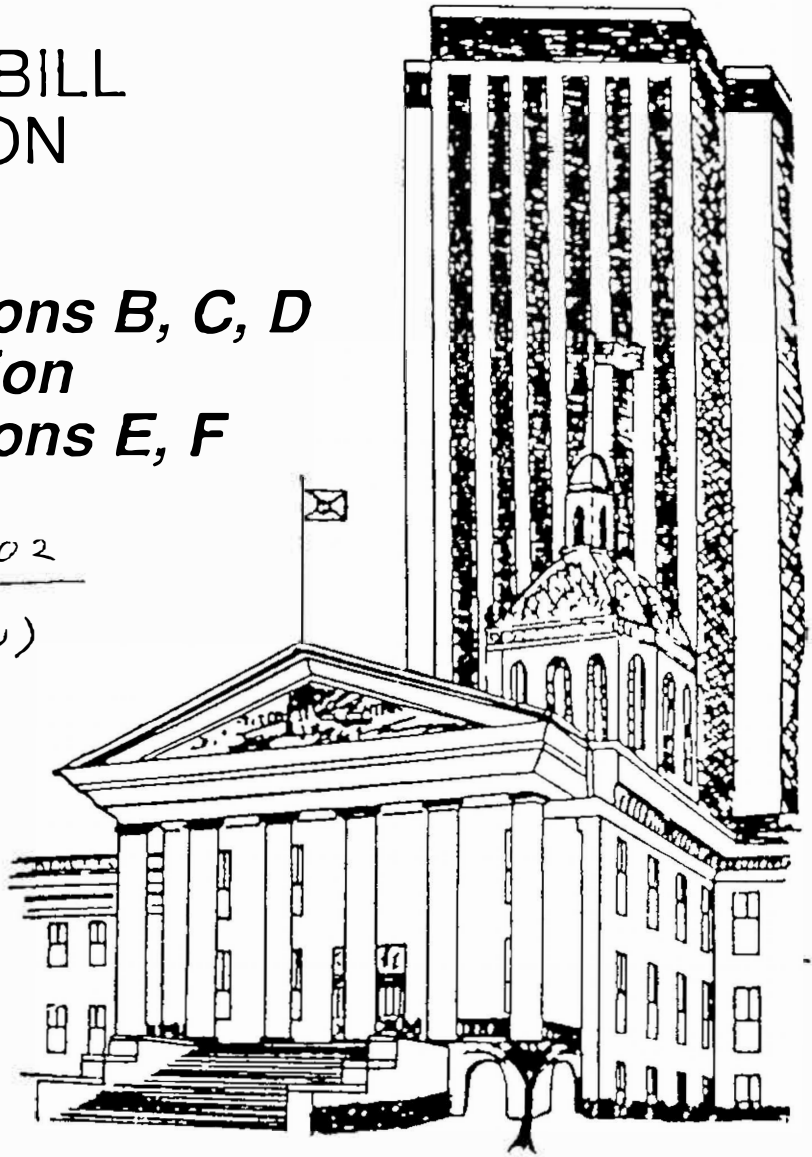
FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION

***1987 Special Sessions B, C, D
1988 Regular Session
1988 Special Sessions E, F***

RE: CHAPTER 88-102

CS/SB 375 (Passed)



prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826 — 488-4371

HISTORY OF SENATE BILLS

S 374 (CONTINUED)

05/04/88 HOUSE Received, referred to Finance & Taxation, Appropriations -HJ 321, On Committee agenda—Finance & Taxation, 05/04/88, 1 15 pm, 21-HOB—Not considered

05/09/88 HOUSE On Committee agenda—Finance & Taxation, 05/11/88, 8 00 am, 21-HOB

05/11/88 HOUSE Preliminary Committee Action by Finance & Taxation Favorable

05/12/88 HOUSE Comm Report Favorable by Finance & Taxation -HJ 472, Now in Appropriations -HJ 472

05/17/88 HOUSE Withdrawn from Appropriations -HJ 514, Placed on Calendar

05/19/88 HOUSE Placed on Special Order Calendar

05/24/88 HOUSE Read second time -HJ 670

05/25/88 HOUSE Read third time, Passed, YEAS 117 NAYS 0 -HJ 683

05/25/88 Ordered enrolled -SJ 386

05/30/88 Signed by Officers and presented to Governor -SJ 548

06/06/88 Approved by Governor, Chapter No 88-83 -SJ 1089

S 375 GENERAL BILL/CS/ENG by Finance, Taxation and Claims;

Finance, Taxation and Claims
Ad Valorem Tax Exemptions/Criteria, revises & provides applicable definitions, requires ownership of property by exempt entity for grant of exemption, specifies criteria to be used in granting exemptions for certain purposes, specifies that criteria does not apply to certain exemptions, includes religious organizations in list of exempt entities, etc Amends 196 012, 192, 196 Effective Date 06/16/88

03/04/88 SENATE Prefiled

03/18/88 SENATE Referred to Finance, Taxation and Claims

04/05/88 SENATE Introduced, referred to Finance, Taxation and Claims -SJ 39

04/13/88 SENATE On Committee agenda—Finance, Taxation and Claims, 04/13/88, 2 00 pm, Room-1C—Temporarily postponed

04/15/88 SENATE Extension of time granted Committee Finance, Taxation and Claims

04/18/88 SENATE On Committee agenda—Finance, Taxation and Claims, 04/20/88, 9 00 am, Room-1C

04/20/88 SENATE Comm Report CS by Finance, Taxation and Claims, placed on Calendar -SJ 166

04/26/88 SENATE CS read first time -SJ 177

04/28/88 SENATE Placed on Special Order Calendar -SJ 193; CS passed, YEAS 35 NAYS 0 -SJ 206

05/03/88 SENATE Immediately certified -SJ 211

05/03/88 HOUSE In Messages

05/04/88 HOUSE Received, referred to Finance & Taxation, Appropriations -HJ 320, On Committee agenda—Finance & Taxation, 05/04/88, 1 15 pm, 21-HOB—Not considered

05/09/88 HOUSE On Committee agenda—Finance & Taxation, 05/11/88, 8 00 am, 21-HOB

05/11/88 HOUSE Preliminary Committee Action by Finance & Taxation Favorable with 1 amendment

05/12/88 HOUSE Comm Report Favorable with 1 amendment(s) by Finance & Taxation -HJ 472, Now in Appropriations -HJ 472

05/17/88 HOUSE Withdrawn from Appropriations -HJ 514, Placed on Calendar

05/19/88 HOUSE Placed on Special Order Calendar

05/24/88 HOUSE Read second time, Amendments adopted -HJ 670

05/25/88 HOUSE Read third time, CS passed as amended, YEAS 114 NAYS 0 -HJ 684

05/25/88 SENATE In Messages

05/26/88 SENATE Concurred, CS passed as amended, YEAS 35 NAYS 0 -SJ 442

05/26/88 Ordered engrossed, then enrolled -SJ 442

06/01/88 Signed by Officers and presented to Governor -SJ 713

06/16/88 Approved by Governor, Chapter No 88-102

S 376 GENERAL BILL/CS/ENG by Judiciary-Civil; Judiciary-Civil (Similar H 1609, Compare H 595)

Judges/Number Increased, increases number of judges for specified district courts of appeal, judicial circuits & county courts Amends 35 06, 26 031, 34.022. Effective Date, 01/03/89 except as otherwise provided

03/07/88 SENATE Prefiled

03/18/88 SENATE Referred to Judiciary-Civil, Appropriations

04/05/88 SENATE Introduced, referred to Judiciary-Civil, Appropriations -SJ 39

04/15/88 SENATE Extension of time granted Committee Judiciary-Civil

04/29/88 SENATE Extension of time granted Committee Judiciary-Civil

05/05/88 SENATE On Committee agenda—Judiciary-Civil, 05/09/88, 1 00 pm, Room-B

05/09/88 SENATE Comm Report, CS by Judiciary-Civil -SJ 267

05/11/88 SENATE CS read first time -SJ 274, Now in Appropriations -SJ 267

05/19/88 SENATE Extension of time granted Committee Appropriations

06/01/88 SENATE Withdrawn from Appropriations -SJ 708, Placed on Calendar

06/02/88 SENATE Placed on Special Order Calendar -SJ 713 & -SJ 715

06/03/88 SENATE Placed on Special Order Calendar -SJ 773 & -SJ 787, CS passed as amended, YEAS 17 NAYS 0 -SJ 816

S 376 (CONTINUED)

06/03/88 HOUSE In Messages, Received, placed on Calendar -HJ 1379, Read second time, Amendment adopted, Read third time; CS passed as amended, YEAS 117 NAYS 0 -HJ 1380

06/03/88 SENATE In Messages

06/06/88 SENATE Concurred, CS passed as amended, YEAS 31 NAYS 0 -SJ 1012

06/06/88 Ordered engrossed, then enrolled -SJ 1012

06/16/88 Signed by Officers and presented to Governor

07/01/88 Approved by Governor, Chapter No 88-167

S 377 GENERAL BILL/CS by Judiciary-Civil; Judiciary-Civil and others (Similar ENG/H 1049, S 833, Compare H 1305, S 806)
Criminal Proceedings/Costs, provides for payment by county of certain costs re operation of state attorney, provides for collection, disposition, & use of additional court costs imposed in cases which defendants plead guilty or nolo contendere, provides that payment of such additional costs must be made part of any plea agreement, provides for payment by county of certain costs re operation of public defender, etc Amends 27 34, 3455 54 Effective Date, 10/01/88 except as otherwise provided

03/07/88 SENATE Prefiled

03/18/88 SENATE Referred to Judiciary-Civil, Appropriations

04/05/88 SENATE Introduced, referred to Judiciary-Civil, Appropriations -SJ 39

04/15/88 SENATE Extension of time granted Committee Judiciary-Civil

04/20/88 SENATE On Committee agenda—Judiciary-Civil, 04/25/88, 2 00 pm, Room-B—Temporarily postponed

04/29/88 SENATE Extension of time granted Committee Judiciary-Civil; On Committee agenda—Judiciary-Civil, 05/04/88, 9 00 am, Room-B

05/04/88 SENATE Comm Report CS by Judiciary-Civil -SJ 246

05/06/88 SENATE CS read first time -SJ 247, Now in Appropriations -SJ 246

05/19/88 SENATE Extension of time granted Committee Appropriations

05/26/88 SENATE On Committee agenda—Appropriations, 05/27/88, 9 00 am, Room-A -SJ 430

05/27/88 SENATE Corum Report Favorable with 2 amendment(s) by Appropriations, placed on Calendar -SJ 464

06/02/88 SENATE Placed on Special Order Calendar -SJ 713 & -SJ 715

06/03/88 SENATE Placed on Special Order Calendar -SJ 773 & -SJ 787, Iden/Sim House Bill substituted, Laid on Table under Rule, Iden/Sim/Compare Bill passed, refer to HB 1049 (Ch 88-280) -SJ 816

S 378 GENERAL BILL/ENG by Brown (Similar H 383)

C&FWFC/Citizen-Support Organizations, provides for establishment of such organizations to raise funds & assist commission, specifies qualifications for such organizations, authorizes comm to permit such organizations to use commission property, facilities & personnel, subject to certain conditions, requires each citizen-support organization to provide for annual audit of its financial records & accounts, prohibits disclosure, in auditor's reports, of identity of anonymous donors Effective Date 06/06/88

03/07/88 SENATE Prefiled

03/18/88 SENATE Referred to Natural Resources and Conservation, Governmental Operations

04/05/88 SENATE Introduced, referred to Natural Resources and Conservation, Governmental Operations -SJ 39, On Committee agenda—Natural Resources and Conservation, 04/06/88, 2 00 pm Room-H

04/06/88 SENATE Comm Report Favorable by Natural Resources and Conservation -SJ 67

04/07/88 SENATE Now in Governmental Operations -SJ 67, On Committee agenda—Governmental Operations, 04/12/88, 2 00 pm, Room-H

04/12/88 SENATE Comm Report Favorable by Governmental Operations, placed on Calendar -SJ 91

04/26/88 SENATE Placed on Special Order Calendar -SJ 165

04/28/88 SENATE Placed on Special Order Calendar -SJ 193, Amendment pending -SJ 202

05/03/88 SENATE Placed on Special Order Calendar -SJ 211

05/05/88 SENATE Placed on Special Order Calendar -SJ 225 & -SJ 225

05/10/88 SENATE Placed on Special Order Calendar -SJ 242 & -SJ 245

05/11/88 SENATE Placed on Special Order Calendar -SJ 267

05/12/88 SENATE Placed on Special Order Calendar -SJ 267

05/17/88 SENATE Placed on Special Order Calendar -SJ 290 & -SJ 291, Passed as amended, YEAS 37 NAYS 0 -SJ 304

05/18/88 SENATE Immediately certified -SJ 314

05/18/88 HOUSE In Messages

05/19/88 HOUSE Received, placed on Calendar -HJ 593, Substituted for HB 133, Read second time -HJ 598

05/24/88 HOUSE Read third time, Passed, YEAS 113 NAYS 0 -HJ 641

05/24/88 Ordered enrolled -SJ 386

05/30/88 Signed by Officers and presented to Governor -SJ 548

06/06/88 Approved by Governor, Chapter No 88-84 -SJ 1089

S 379 GENERAL BILL by Deratany (Compare H 5)

Homeowners Association/Mandatory, provides definitions provides for transfer of control of board of administration of mandatory homeowners association from

By the Committee on Finance, Taxation and Claims

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled
An act relating to ad valorem tax exemptions;
amending s. 196.012, F.S.; revising and
providing applicable definitions; conforming a
cross-reference; amending s. 196.192, F.S.;
specifying criteria to be used in granting
exemptions for certain purposes; providing an
effective date.

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

Section 1. Subsections (4), (5), (6), (7), (8), (9),
(10), (11), (12), (13), (14), (15), (16), (17), and (18) of
section 196.012, Florida Statutes, are renumbered as
subsections (5), (6), (7), (8), (9), (10), (11), (12), (13),
(14), (15), (16), (17), (18), and (19) of said section,
respectively; and subsections (1), (2), (3), and (16) of said
section are amended, and a new subsection (4) is added to said
section, to read:

196.012 Definitions.--For the purpose of this chapter,
the following terms are defined as follows, except where the
context clearly indicates otherwise:

(1) "Exempt use of property" or "use of property for
exempt purposes" means predominant or exclusive use of
property for educational, literary, scientific, religious,
charitable, or governmental purposes use, as defined in this
chapter.

(2) "Exclusive use of property" means use of property
solely that-is-used-100-percent for exempt purposes. Such
purposes may include more than one class of exempt use.

1 (3) "Predominant use of property" means use of
2 property used for exempt purposes in excess of 50 percent but
3 less than exclusive.

4 (4) "Use" means the exercise of any right or power
5 over real or personal property incident to the ownership of
6 the property or any interest in the property.

7 (17)~~(16)~~ "Permanent resident" means a person who has
8 established a permanent residence as defined in subsection
9 ~~(18)~~~~(17)~~.

10 Section 2. Section 196.192, Florida Statutes, is
11 amended to read:

12 196.192 Exemptions from ad valorem taxation.--Subject
13 to the provisions of this chapter:

14 (1) All property used exclusively for exempt purposes
15 shall be totally exempt from ad valorem taxation.

16 (2) All property used predominantly for exempt
17 purposes shall be exempted from ad valorem taxation to the
18 extent of the ratio that such predominant use bears to the
19 nonexempt use.

20
21 For purposes of this section, each use to which the property
22 is being put must be considered in granting an exemption from
23 ad valorem taxation, including any economic use, in addition
24 to any physical use.

25 Section 3. This act shall take effect upon becoming a
26 law.

27 SENATE SUMMARY

28 Revises definitions applicable to ad valorem tax
29 exemptions and provides a definition for the term "use"
30 with respect thereto. Provides that, in deciding whether
31 an ad valorem tax exemption should be granted, each use
to which property is being put must be considered,
including any economic use in addition to each physical
use.

By the Committee on Finance, Taxation and Claims and
 Senator Deratany

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

1 A bill to be entitled
 2 An act relating to ad valorem tax exemptions;
 3 amending s. 196.012, F.S.; revising and
 4 providing applicable definitions; conforming a
 5 cross-reference; requiring ownership of
 6 property by an exempt entity for grant of an
 7 exemption; amending s. 196.192, F.S.;
 8 specifying criteria to be used in granting
 9 exemptions for certain purposes; amending s.
 10 196.196, F.S.; including religious
 11 organizations in a list of exempt entities;
 12 providing an effective date.

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

15 Section 1. Subsections (4), (5), (6), (7), (8), (9),
 16 (10), (11), (12), (13), (14), (15), (16), (17), and (18) of
 17 section 196.012, Florida Statutes, are renumbered as
 18 subsections (5), (6), (7), (8), (9), (10), (11), (12), (13),
 19 (14), (15), (16), (17), (18), and (19) of said section,
 20 respectively; and subsections (1), (2), (3), and (16) of said
 21 section are amended, and a new subsection (4) is added to said
 22 section, to read:

24 196.012 Definitions.--For the purpose of this chapter,
 25 the following terms are defined as follows, except where the
 26 context clearly indicates otherwise:

27 (1) "Exempt use of property" or "use of property for
 28 exempt purposes" means predominant or exclusive use of
 29 property, owned by an exempt entity, for educational,
 30 literary, scientific, religious, charitable, or governmental
 31 purposes use, as defined in this chapter.

1 (2) "Exclusive use of property" means use of property
 2 solely that-is-used-100-percent for exempt purposes. Such
 3 purposes may include more than one class of exempt use.

4 (3) "Predominant use of property" means use of
 5 property used for exempt purposes in excess of 50 percent but
 6 less than exclusive.

7 (4) "Use" means the exercise of any right or power
 8 over real or personal property incident to the ownership of
 9 the property.

10 (17)~~(16)~~ "Permanent resident" means a person who has
 11 established a permanent residence as defined in subsection
 12 ~~(18)~~~~(17)~~.

13 Section 2. Section 196.192, Florida Statutes, is
 14 amended to read:

15 196.192 Exemptions from ad valorem taxation.--Subject
 16 to the provisions of this chapter:

17 (1) All property owned by an exempt entity and used
 18 exclusively for exempt purposes shall be totally exempt from
 19 ad valorem taxation.

20 (2) All property owned by an exempt entity and used
 21 predominantly for exempt purposes shall be exempted from ad
 22 valorem taxation to the extent of the ratio that such
 23 predominant use bears to the nonexempt use.

24
 25 For purposes of this section, each use to which the property
 26 is being put must be considered in granting an exemption from
 27 ad valorem taxation, including any economic use, in addition
 28 to any physical use.

29 Section 3. Subsection (3) of section 196.196, Florida
 30 Statutes, is amended to read:

1 196.196 Criteria for determining that portion of
2 charitable, religious, scientific or literary property
3 entitled to exempt status.--

4 (3) Except as otherwise provided herein, property
5 claimed as exempt for literary, scientific, religious, or
6 charitable purposes which is used for profitmaking purposes
7 shall be subject to ad valorem taxation. Use of property for
8 functions not requiring a business or occupational license
9 conducted by the organization at its primary residence the
10 revenue of which is used wholly for exempt purposes shall not
11 be considered profit making. In this connection the playing
12 of bingo on such property shall not be considered as using
13 such property in such a manner as would impair its exempt
14 status.

15 Section 4. This act shall take effect upon becoming a
16 law.

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20 **STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN**
21 **COMMITTEE SUBSTITUTE FOR**
22 **Senate Bill 375**

23 Senate Bill 375 addresses only use of property for exempt
24 purposes with respect to granting property tax exemptions.
25 Ownership by an exempt entity is not specified. A property
26 tax exemption inures to the property owner. A non-exempt
27 owner could lease property to someone to use for exempt
28 purposes. The owner could receive the exemption even though
29 he was using the property for a profitmaking purpose, a non-
30 exempt purpose. Committee Substitute for Senate Bill 375
31 requires that property be owned by an exempt entity as well
as used for exempt purposes to be eligible for a property tax
exemption.

(e) Upon receipt of the written statement from the property appraiser, the tax collector shall reduce the taxes on the property shown on the tax collection roll to the amount shown by the property appraiser to be due.

(f) No later than May 1, the tax collector shall notify the board of county commissioners and the Department of Revenue of the total reduction in taxes for all property which received a partial abatement of taxes pursuant to this section.

(g) For purposes of this subsection:

1. "Loss of use and occupancy" means that the building or structure, or some self-sufficient unit within it, cannot be used for the purpose for which it was constructed during a period of 60 days or more.

2. "House or other residential building or structure" does not include amenities not essential to use and occupancy such as detached utility buildings, bulkheads, fences, detached carports, swimming pools, and other similar items of property.

(h) This subsection shall take effect upon becoming law, and shall apply retroactive to January 1, 1988 and shall stand repealed July 1, 1989.

Section 5. Except as otherwise provided herein, this act shall take effect January 1, 1989, and shall apply only to tax years 1989 and thereafter.

Approved by the Governor June 16, 1988.

Filed in Office Secretary of State June 16, 1988.

CHAPTER 88-102

Committee Substitute for Senate Bill No. 375

An act relating to ad valorem tax exemptions; amending s. 196.012, F.S.; revising and providing applicable definitions; conforming a cross-reference; requiring ownership of property by an exempt entity for grant of an exemption; amending s. 196.192, F.S.; specifying criteria to be used in granting exemptions for certain purposes; specifying that the criteria does not apply to exemptions pursuant to s. 196.199, F.S.; amending s. 196.196, F.S.; including religious organizations in a list of exempt entities; providing an effective date.

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

Section 1. Subsections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18) of section 196.012, Florida Statutes, are renumbered as subsections (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19) of said section, respectively; and subsections (1), (2), (3), (5), and (16) of said section are amended, and a new subsection (4) is added to said section, to read:

196.012 Definitions.--For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(1) "Exempt use of property" or "use of property for exempt purposes" means predominant or exclusive use of property, owned by an exempt entity, for educational, literary, scientific, religious, charitable, or governmental purposes use, as defined in this chapter.

(2) "Exclusive use of property" means use of property solely that is-used-100-percent for exempt purposes. Such purposes may include more than one class of exempt use.

(3) "Predominant use of property" means use of property used for exempt purposes in excess of 50 percent but less than exclusive.

(4) "Use" means the exercise of any right or power over real or personal property incident to the ownership of the property.

(5)~~(4)~~ "Educational institution" means a state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools; and educational direct-support organizations created pursuant to ss. 229.8021, 240.299 and 240.331; and facilities located on the property of eligible entities which will become owned by those entities on a date certain.

(17)~~(16)~~ "Permanent resident" means a person who has established a permanent residence as defined in subsection (18)~~(17)~~.

Section 2. Section 196.192, Florida Statutes, is amended to read:

196.192 Exemptions from ad valorem taxation.--Subject to the provisions of this chapter:

(1) All property owned by an exempt entity and used exclusively for exempt purposes shall be totally exempt from ad valorem taxation.

(2) All property owned by an exempt entity and used predominantly for exempt purposes shall be exempted from ad valorem taxation to the extent of the ratio that such predominant use bears to the nonexempt use.

For purposes of this section, each use to which the property is being put must be considered in granting an exemption from ad valorem taxation, including any economic use, in addition to any physical use. This section shall not apply in determining the exemption for property owned by governmental units pursuant to s. 196.199.

Section 3. Subsection (3) of section 196.196, Florida Statutes, is amended to read:

196.196 Criteria for determining that portion of charitable, religious, scientific or literary property entitled to exempt status.--

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

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 16, 1988.

Filed in Office Secretary of State June 16, 1988.

CHAPTER 88-103

Senate Bill No. 595

An act relating to liability insurance for sheriffs and their deputies and employees; creating s. 30.555, F.S.; authorizing sheriffs to secure and obtain such liability insurance; providing an effective date.

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

Section 1. Section 30.555, Florida Statutes, is created to read:

30.555 Liability insurance.--The sheriff may obtain insurance to cover liability for damages arising out of claims for false arrests, false imprisonment, false or improper service of process, or other claims arising out of the performance of his duties or the duties of his deputies or employees and may pay the premiums for such insurance from funds appropriated for the necessary and regular expenses of his office without specific appropriation or specification of expenses with respect thereto.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 16, 1988.

Filed in Office Secretary of State June 16, 1988.

CHAPTER 88-104

Senate Bill No. 682

An act relating to insurance; amending s. 626.752, F.S., relating to the exchange of business, providing additional restrictions, disclosures and requirements; providing for liability of insurers for coverage written by unlicensed agents under certain circumstances; amending s. 626.918, F.S.; clarifying existing language; providing a waiver of certain requirements by the Department of Insurance with respect to certain surplus

**HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCE & TAXATION
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/SB 375

RELATING TO: Ad Valorem Tax Exemption versus Ownership

SPONSOR(S): Senate FT&C Committee and Senator Deratany

EFFECTIVE DATE: _____

COMPANION BILL(S): _____

OTHER COMMITTEES OF REFERENCE: (1) _____
(2) _____

I. SUMMARY:

A. PRESENT SITUATION:

Section 196.192, F.S., totally exempt from ad valorem taxation property used exclusively for exempt purposes and partially exempt property used predominately for exempt purposes. Under s. 196.012, F.S., exempt uses are specified to be for educational, literary, scientific, religion, charitable, or governmental purposes. Exclusive use is 100 percent for exempt purposes and predominant use is use in excess of 50 percent for exempt purposes. Section 196.011(1), F.S., requires an annual application for exemption from taxation on property as a result of its ownership and use from the person or organization who has legal title to real or personal property. A person must own and use property for homestead purposes to receive the homestead exemption under s. 196.031, F.S. Section 196.195, F.S., provides criteria for determining profit or non-profit status of an applicant and s. 196.196, F.S., provides criteria for determining that portion of charitable, religious, scientific, or literary property which is entitled to exempt status. Property may not be exempt if it is used for profit-making or non-exempt purposes. (S. 196.195(3), F.S.) No application for exemption may be granted for exempt purposes until the applicant has been found to be non-profit. (S. 196.195(4), F.S.) Property claimed as exempt for exempt purposes but used for profit-making purposes is taxable. (S. 196.196(3), F.S.) In 1984, the District Court of Appeal of the Second District, in Daniel v. Murrell, held that under changes made to the Florida Constitution in 1968 and under s. 196.192, F.S., only actual physical use of property is material in granting exemptions from taxation. Other types of use, such as economic use, and the character of ownership are irrelevant. In 1987, the Florida Supreme Court in Schultz v. Trustees Skycrest Baptist Church, Inc. relied on Murrell to uphold a decision to look only to actual physical use of property in granting an exemption from property taxes. Neither court considered any other provisions

of Chapter 196, F.S., established under Constitutional authorization, in construing provisions granting property tax exemptions.

Currently, s. 196.196(3), F.S., subjects to taxation property claimed as exempt for literary, scientific, or charitable purposes but used for profitmaking purposes. Property claimed as exempt for religious purposes but used for profitmaking purposes is not specifically taxable. The omission was inadvertent inasmuch as the other provisions of s. 196.196, F.S., apply to literary, religious, or charitable purposes.

B. EFFECT OF PROPOSED CHANGES:

The bill clarifies the definitions of "exempt use", "exclusive use", and "predominant use" of property. It defines use to be the exercise of any right or power over property incident to ownership of the property. It amends s. 196.192, F.S., to make it clear that that section be read in conjunction with and be subject to other provisions of chapter 196, F.S., and that each use to which property is put be considered in granting exemptions, including economic uses. It further specifies that only property owned by an exempt entity and used for exempt purposes may be exempt from taxation.

The bill subjects to taxation property claimed as exempt for religious purposes but used for profitmaking purposes.

C. SECTION-BY-SECTION ANALYSIS:

See B. above

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

Indeterminate -- Local governments will have their tax bases expanded to the extent that property used for profitmaking purposes will be subject to taxation.

3. Long Run Effects Other Than Normal Growth:

Indeterminant

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

The public should benefit to the extent that property which is used for profit-making purposes will be subject to taxation, increasing the tax base and lowering the millage necessary to meet budget requirements of local governments.

3. Effects on Competition, Private Enterprise, and Employment Markets:

D. FISCAL COMMENTS:

Local: Local governments will benefit from the standpoint that current property tax bases will be protected from being reduced by reliance on Murrell and Skycrest.

State: None

III. LONG RANGE CONSEQUENCES:

IV. COMMENTS:

None

V. AMENDMENTS:

None

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:

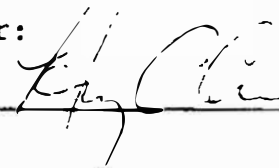
Staff Director:

FINANCE & TAXATION:
Prepared by:

Staff Director:

Henry C. Cain _____



Henry C. Cain _____



APPROPRIATIONS:
Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Boyle 	Beqq 	1. <u>FTC</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Ad Valorem Tax Exemption
Use versus Ownership

BILL NO. AND SPONSOR:

CS/SB 375 by
Senate FT&C Committee
and Senator Deratany

I. SUMMARY:

A. Present Situation:

Section 196.192, F.S., totally exempt from ad valorem taxation property used exclusively for exempt purposes and partially exempt property used predominately for exempt purposes. Under s. 196.012, F.S., exempt uses are specified to be for educational, literary, scientific, religion, charitable, or governmental purposes. Exclusive use is 100 percent for exempt purposes and predominant use is use in excess of 50 percent for exempt purposes. Section 196.011(1), F.S., requires an annual application for exemption from taxation on property as a result of its ownership and use from the person or organization who has legal title to real or personal property. A person must own and use property for homestead purposes to receive the homestead exemption under s. 196.031, F.S. Section 196.195, F.S., provides criteria for determining profit or non-profit status of an applicant and s. 196.196, F.S., provides criteria for determining that portion of charitable, religious, scientific, or literary property which is entitled to exempt status. Property may not be exempt if it is used for profit-making or non-exempt purposes. (s. 196.195(3), F.S.) No application for exemption may be granted for exempt purposes until the applicant has been found to be non-profit. (s. 196.195(4), F.S.) Property claimed as exempt for exempt purposes but used for profit-making purposes is taxable. (s. 196.196(3), F.S.) In 1984, the District Court of Appeal of the Second District, in Daniel v. Murrell, held that under changes made to the Florida Constitution in 1968 and under s. 196.192, F.S., only actual physical use of property is material in granting exemptions from taxation. Other types of use, such as economic use, and the character of ownership are irrelevant. In 1987, the Florida Supreme Court in Schultz v. Trustees Skycrest Baptist Church, Inc. relied on Murrell to uphold a decision to look only to actual physical use of property in granting an exemption from property taxes. Neither court considered any other provisions of Chapter 196, F.S., established under Constitutional authorization, in construing provisions granting property tax exemptions.

Currently, s. 196.196(3), F.S., subjects to taxation property claimed as exempt for literary, scientific, or charitable purposes but used for profitmaking purposes. Property claimed as exempt for religious purposes but used for profitmaking purposes is not specifically taxable. The omission was inadvertent inasmuch as the other provisions of s. 196.196, F.S., apply to literary, religious, or charitable purposes.

B. Effect of Proposed Changes:

The bill clarifies the definitions of "exempt use", "exclusive use", and "predominant use" of property. It defines use to be

the exercise of any right or power over property incident to ownership of the property. It amends s. 196.192, F.S., to make it clear that that section be read in conjunction with and be subject to other provisions of chapter 196, F.S., and that each use to which property is put be considered in granting exemptions, including economic uses. It further specifies that only property owned by an exempt entity and used for exempt purposes may be exempt from taxation.

The bill subjects to taxation property claimed as exempt for religious purposes but used for profitmaking purposes.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The public should benefit to the extent that property which is used for profit-making purposes will be subject to taxation, increasing the tax base and lowering the millage necessary to meet budget requirements of local governments.

B. Government:

Local: Local governments will benefit from the standpoint that current property tax bases will be protected from being reduced by reliance on Murrell and Skycrest.

State: None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 375

Senate Bill 375 addresses only use of property for exempt purposes with respect to granting property tax exemptions. Ownership by an exempt entity is not specified. A property tax exemption inures to the property owner. A non-exempt owner could lease property to someone to use for exempt purposes. The owner could receive the exemption even though he was using the property for a profitmaking purpose, a non-exempt purpose. Committee Substitute for Senate Bill 375 requires that property be owned by an exempt entity as well as used for exempt purposes to be eligible for a property tax exemption.

Committee on Finance, Taxation and Claims



Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

Journal
of the
Florida
House of Representatives



Ninetieth
Regular Session
since Statehood in 1845
April 5 through June 7, 1988

[Including a record of transmittal of Acts subsequent to sine die adjournment]

3. Has obtained 1 year of practical experience in health care risk management

(2) This section shall apply to new certificates issued on or after October 1, 1989 (renumber subsequent sections)

Rep Martinez moved the adoption of the amendment, which was adopted without objection

Representative Martinez offered the following title amendment

Amendment 6—On page 4, line 31, insert amending s 626 944, F.S., changing eligibility requirements for risk managers, health care

Rep Martinez moved the adoption of the amendment, which was adopted without objection.

Representative Lewis offered the following amendment

Amendment 7—On page 46, line 23, after the period insert Section 56. Any insurance company which does business in Florida and sells malpractice insurance in any other state shall sell malpractice insurance in Florida (renumber subsequent sections)

Rep Lewis moved the adoption of the amendment, which failed of adoption

Representative Crady offered the following amendment

Amendment 8—On page 5, line 9, insert Section 1 Subsection (6) is added to section 624 155, Florida Statutes, to read

624 155 Civil remedy —

(6) In the absence of expressed language to the contrary, this section shall not be construed to authorize a civil action or create a cause of action against an insurer or its employees who, in good faith, release information about an insured or an insurance policy to a law enforcement agency in furtherance of an investigation of a criminal or fraudulent act relating to a motor vehicle theft or a motor vehicle insurance claim (renumber subsequent sections)

Rep Crady moved the adoption of the amendment, which was adopted without objection

Representative Crady offered the following title amendment.

Amendment 9—On page 1, line 2, after the semicolon insert amending s 624 155, F.S., providing that release of certain information to a law enforcement agency shall not create a cause of action,

Rep Crady moved the adoption of the amendment, which was adopted without objection

Under Rule 8 19, the bill was referred to the Engrossing Clerk

THE SPEAKER IN THE CHAIR

HB 1554 was taken up On motion by Rep Simon, CS/SB 1140, a similar or companion measure, was substituted for HB 1554 Under the rule, the House bill was laid on the table and—

CS for SB 1140—A bill to be entitled An act relating to insurance, creating s 627 971, F.S., providing definitions, creating s 627 972, F.S., providing organizational and financial requirements for financial guaranty insurance corporations, creating s 627 973, F.S., providing limitations under which financial guaranty insurance corporations and certain property and casualty insurers may operate, creating s 627 974, F.S., requiring the filing of certain policy forms with the Department of Insurance, prohibiting excessive rates by financial guaranty insurance corporations, providing criteria for determining the adequacy of such rates, providing that such filings shall be available for public inspection, creating s 627 975, F.S., providing that certain financial guaranty insurance corporations shall receive credit for certain reinsurance, creating s 624 6081, F.S., defining "residual value insurance", amending s 624 606, F.S., redefining "surety insurance", creating s 624 6065, F.S., defining "fidelity insurance", amending s 624 605, F.S., limiting the definition of casualty insurance as it relates to certain credit insurance, providing for legislative review and repeal, providing an effective date

—was read the second time by title and, under Rule 8 19, referred to the Engrossing Clerk

THE SPEAKER PRO TEMPORE IN THE CHAIR

SB 374—A bill to be entitled An act relating to ad valorem taxation, amending s 192 032, F.S., revising provisions for determining situs of property for assessment purposes; providing an effective date

—was read the second time by title, and, under Rule 8.19, referred to the Engrossing Clerk

CS for SB 375—A bill to be entitled An act relating to ad valorem tax exemptions; amending s 196 012, F.S., revising and providing applicable definitions, conforming a cross-reference, requiring ownership of property by an exempt entity for grant of an exemption, amending s 196 192, F.S., specifying criteria to be used in granting exemptions for certain purposes, amending s 196 196, F.S., including religious organizations in a list of exempt entities, providing an effective date

—was read the second time by title

The Committee on Finance & Taxation offered the following amendment

Amendment 1—On page 2, line 28, strike all of said line and insert to any physical use This section shall not apply in determining the exemption for property owned by governmental units pursuant to s 196 199

Rep Figg moved the adoption of the amendment, which was adopted.

Representative Ascherl offered the following title amendment.

Amendment 2—On page 1, line 9, after the semicolon insert specifying that the criteria does not apply to exemptions pursuant to s 196 199, F.S.

Rep Figg moved the adoption of the amendment, which was adopted without objection

Representative Gardner offered the following amendment

Amendment 3—On page 2, line 9, after the period insert (5)(4) "Educational institution" means a state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools, and educational direct-support organizations created pursuant to ss 229 8021, 240 299 and 240 331, and facilities located on the property of eligible entities which will become owned by those entities on a date certain

Rep Gardner moved the adoption of the amendment, which was adopted without objection

Representative Gardner offered the following amendment

Amendment 4—On page 1, line 21, after "(3)," insert (5),

Rep Gardner moved the adoption of the amendment, which was adopted without objection

Under Rule 8 19, the bill was referred to the Engrossing Clerk

CS for SB 334—A bill to be entitled An act relating to homestead tax exemption, amending s 196 011, F.S., authorizing persons who fail to timely apply for a homestead tax exemption to petition the property appraisal adjustment board, providing a filing fee, authorizing the granting of the exemption, providing an effective date

—was read the second time by title

Representative Mackey offered the following amendment

Amendment 1—On page 2, lines 13 and 14, strike all of said lines and insert Section 2 Subsection (3) is added to section 196 295, Florida Statutes to read

By the Committee on Finance, Taxation and Claims

314-899-88

This publication was produced at an average cost of 15 cents per page for the information of members of the legislature and the public.

A bill to be entitled

An act relating to ad valorem tax exemptions; amending s. 196.012, F.S.; revising and providing applicable definitions; conforming a cross-reference; amending s. 196.192, F.S.; specifying criteria to be used in granting exemptions for certain purposes; providing an effective date.

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

Section 1. Subsections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18) of section 196.012, Florida Statutes, are renumbered as subsections (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19) of said section, respectively; and subsections (1), (2), (3), and (16) of said section are amended, and a new subsection (4) is added to said section, to read:

196.012 Definitions.--For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(1) "Exempt use of property" or "use of property for exempt purposes" means predominant or exclusive use of property for educational, literary, scientific, religious, charitable, or governmental purposes use, as defined in this chapter.

(2) "Exclusive use of property" means use of property solely that is used 100-percent for exempt purposes. Such purposes may include more than one class of exempt use.

(3) "Predominant use of property" means use of property used for exempt purposes in excess of 50 percent but less than exclusive.

(4) "Use" means the exercise of any right or power over real or personal property incident to the ownership of the property or any interest in the property.

(17)†16‡ "Permanent resident" means a person who has established a permanent residence as defined in subsection (18)†17‡.

Section 2. Section 196.192, Florida Statutes, is amended to read:

196.192 Exemptions from ad valorem taxation.--Subject to the provisions of this chapter:

(1) All property used exclusively for exempt purposes shall be totally exempt from ad valorem taxation.

(2) All property used predominantly for exempt purposes shall be exempted from ad valorem taxation to the extent of the ratio that such predominant use bears to the nonexempt use.

For purposes of this section, each use to which the property is being put must be considered in granting an exemption from ad valorem taxation, including any economic use, in addition to any physical use.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Revises definitions applicable to ad valorem tax exemptions and provides a definition for the term "use" with respect thereto. Provides that, in deciding whether an ad valorem tax exemption should be granted, each use to which property is being put must be considered, including any economic use in addition to each physical use.

By the Committee on Finance, Taxation and Claims and
Senator Deratany

This publication was produced at an average cost of 1.5 cents per page for the information of members of the Legislature and the public.

1 A bill to be entitled

2 An act relating to ad valorem tax exemptions;

3 amending s. 196.012, F.S.; revising and

4 providing applicable definitions; conforming a

5 cross-reference; requiring ownership of

6 property by an exempt entity for grant of an

7 exemption; amending s. 196.192, F.S.;

8 specifying criteria to be used in granting

9 exemptions for certain purposes; amending s.

10 196.196, F.S.; including religious

11 organizations in a list of exempt entities;

12 providing an effective date.

13

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

15

16 Section 1. Subsections (4), (5), (6), (7), (8), (9),

17 (10), (11), (12), (13), (14), (15), (16), (17), and (18) of

18 section 196.012, Florida Statutes, are renumbered as

19 subsections (5), (6), (7), (8), (9), (10), (11), (12), (13),

20 (14), (15), (16), (17), (18), and (19) of said section,

21 respectively; and subsections (1), (2), (3), and (16) of said

22 section are amended, and a new subsection (4) is added to said

23 section, to read:

24 196.012 Definitions.--For the purpose of this chapter,

25 the following terms are defined as follows, except where the

26 context clearly indicates otherwise:

27 (1) "Exempt use of property" or "use of property for

28 exempt purposes" means predominant or exclusive use of

29 property, owned by an exempt entity, for educational,

30 literary, scientific, religious, charitable, or governmental

31 purposes use, as defined in this chapter.

1 (2) "Exclusive use of property" means use of property
2 ~~solely that is used 100~~-percent for exempt purposes. Such
3 purposes may include more than one class of exempt use.

4 (3) "Predominant use of property" means use of
5 property used for exempt purposes in excess of 50 percent but
6 less than exclusive.

7 (4) "Use" means the exercise of any right or power
8 over real or personal property incident to the ownership of
9 the property.

10 ~~(17)(16)~~ "Permanent resident" means a person who has
11 established a permanent residence as defined in subsection
12 ~~(18)(17)~~.

13 Section 2. Section 196.192, Florida Statutes, is
14 amended to read:

15 196.192 Exemptions from ad valorem taxation.--Subject
16 to the provisions of this chapter:

17 (1) All property owned by an exempt entity and used
18 exclusively for exempt purposes shall be totally exempt from
19 ad valorem taxation.

20 (2) All property owned by an exempt entity and used
21 predominantly for exempt purposes shall be exempted from ad
22 valorem taxation to the extent of the ratio that such
23 predominant use bears to the nonexempt use.

24 For purposes of this section, each use to which the property
25 is being put must be considered in granting an exemption from
26 ad valorem taxation, including any economic use, in addition
27 to any physical use.

28 Section 3. Subsection (3) of section 196.196, Florida
29 Statutes, is amended to read:
30
31

1 196.196 Criteria for determining that portion of
2 charitable, religious, scientific or literary property
3 entitled to exempt status.--

4 (3) Except as otherwise provided herein, property
5 claimed as exempt for literary, scientific, religious, or
6 charitable purposes which is used for profitmaking purposes
7 shall be subject to ad valorem taxation. Use of property for
8 functions not requiring a business or occupational license
9 conducted by the organization at its primary residence the
10 revenue of which is used wholly for exempt purposes shall not
11 be considered profit making. In this connection the playing
12 of bingo on such property shall not be considered as using
13 such property in such a manner as would impair its exempt
14 status.

15 Section 4. This act shall take effect upon becoming a
16 law.

17
18
19
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 Senate Bill 375

23 Senate Bill 375 addresses only use of property for exempt
24 purposes with respect to granting property tax exemptions.
25 Ownership by an exempt entity is not specified. A property
26 tax exemption inures to the property owner. A non-exempt
27 owner could lease property to someone to use for exempt
28 purposes. The owner could receive the exemption even though
29 he was using the property for a profitmaking purpose, a non-
30 exempt purpose. Committee Substitute for Senate Bill 375
31 requires that property be owned by an exempt entity as well
as used for exempt purposes to be eligible for a property tax
exemption.