

**As Passed by the Senate**

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**Sub. H. B. No. 416**

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**A B I L L**

To amend sections 5701.13 and 5709.12 of the Revised 1  
Code to provide property tax exemption for 2  
retirement or nursing homes belonging to tax-exempt 3  
organizations and occupied by persons who have 4  
retired from uncompensated service to a charitable, 5  
religious, fraternal, or educational institution. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5701.13 and 5709.12 of the Revised 7  
Code be amended to read as follows: 8

**Sec. 5701.13.** (A) As used in this section: 9

(1) "Nursing home" means a nursing home or a home for the 10  
aging, as those terms are defined in section 3721.01 of the 11

Revised Code, that is issued a license pursuant to section 3721.02  
of the Revised Code.

(2) "Residential care facility" means a residential care  
facility, as defined in section 3721.01 of the Revised Code, that  
is issued a license pursuant to section 3721.02 of the Revised  
Code.

(3) "Adult care facility" means an adult care facility as  
defined in section 3722.01 of the Revised Code that is issued a  
license pursuant to section 3722.04 of the Revised Code.

(B) As used in Title LVII of the Revised Code, and for the  
purpose of other sections of the Revised Code that refer  
specifically to Chapter 5701. or section 5701.13 of the Revised  
Code, a "home for the aged" means ~~a~~ either of the following:

(1) A place of residence for aged and infirm persons that  
satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is ~~either~~ a nursing home, residential care facility,  
or adult care facility ~~and that meets all of the following  
standards:~~

~~(1)(b)~~ (b) It is owned by a corporation, unincorporated  
association, or trust of a charitable, religious, or fraternal  
nature, which is organized and operated not for profit, which is  
not formed for the pecuniary gain or profit of, and whose net  
earnings or any part of whose net earnings is not distributable  
to, its members, trustees, officers, or other private persons, and  
which is exempt from federal income taxation under section 501 of  
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

~~(2)(c)~~ (c) It is open to the public without regard to race,  
color, or national origin~~+~~.

~~(3)(d)~~ (d) It does not pay, directly or indirectly, compensation  
for services rendered, interest on debts incurred, or purchase

price for land, building, equipment, supplies, or other goods or 42  
chattels, which compensation, interest, or purchase price is 43  
unreasonably high~~r~~. 44

~~(4)~~(e) It provides services for the life of each resident 45  
without regard to ~~his~~ the resident's ability to continue payment 46  
for the full cost of the services. 47

(2) A place of residence that satisfies divisions (B)(1)(b), 48  
(d), and (e) of this section; that satisfies the definition of 49  
"nursing home," "residential care facility," or "adult care 50  
facility" under section 3721.01 or 3722.01 of the Revised Code 51  
regardless of whether it is licensed as such a home or facility; 52  
and that is provided at no charge to individuals on account of 53  
their service without compensation to a charitable, religious, 54  
fraternal, or educational institution, which individuals are aged 55  
or infirm and are members of the corporation, association, or 56  
trust that owns the place of residence. For the purposes of 57  
division (B)(2) of this section, "compensation" does not include 58  
furnishing room and board, clothing, health care, or other 59  
necessities, or stipends or other de minimis payments to defray 60  
the cost thereof. 61

Exemption from taxation shall be accorded, on proper 62  
application, only to those homes or parts of homes which meet the 63  
standards and provide the services specified in this section. 64

Nothing in this section shall be construed as preventing a 65  
home from requiring a resident with financial need to apply for 66  
any applicable financial assistance or requiring a home to retain 67  
a resident who willfully refuses to pay for services for which ~~he~~ 68  
the resident has contracted even though ~~he~~ the resident has 69  
sufficient resources to do so. 70

(C)(1) If a corporation, unincorporated association, or trust 71  
described in division (B)(1)(b) of this section is granted a 72  
certificate of need pursuant to section 3702.52 of the Revised 73

Code to construct, add to, or otherwise modify a nursing home, or 74  
is given approval pursuant to section 3791.04 of the Revised Code 75  
to construct, add to, or otherwise modify a residential care 76  
facility or adult care facility and if the corporation, 77  
association, or trust submits an affidavit to the tax commissioner 78  
stating that, commencing on the date of licensure and continuing 79  
thereafter, the home or facility will be operated in accordance 80  
with the requirements of divisions (B)(1), ~~(2)~~, ~~(3)~~, and ~~(4)~~(a) to 81  
(e) of this section, the corporation, association, or trust shall 82  
be considered to be operating a "home for the aged" within the 83  
meaning of division (B)(1) of this section, beginning on the first 84  
day of January of the year in which such certificate is granted or 85  
approval is given. 86

(2) If a corporation, association, or trust is considered to 87  
be operating a "home for the aged" pursuant to division (C)(1) of 88  
this section, the corporation, association, or trust shall notify 89  
the tax commissioner in writing upon the occurrence of any of the 90  
following events: 91

(a) The corporation, association, or trust no longer intends 92  
to complete the construction of, addition to, or modification of 93  
the home or facility, to obtain the appropriate license for the 94  
home or facility, or to commence operation of the home or facility 95  
in accordance with the requirements of divisions (B)(1), ~~(2)~~, ~~(3)~~, 96  
and ~~(4)~~(a) to (e) of this section; 97

(b) The certificate of approval referred to in division 98  
(C)(1) of this section expires, is revoked, or is otherwise 99  
terminated prior to the completion of the construction of, 100  
addition to, or modification of the home or facility; 101

(c) The license to operate the home or facility is not 102  
granted by the director of health within one year following 103  
completion of the construction of, addition to, or modification of 104  
the home or facility; 105

(d) The license to operate the home or facility is not 106  
granted by the director of health within four years following the 107  
date upon which the certificate or approval referred to in 108  
division (C)(1) of this section was granted or given; 109

(e) The home or facility is granted a license to operate as a 110  
nursing home, residential care facility, or adult care facility. 111

(3) Upon the occurrence of any of the events referred to in 112  
divisions (C)(2)(a), (b), (c), (d), ~~or~~ and (e) of this section, 113  
the corporation, association, or trust shall no longer be 114  
considered to be operating a "home for the aged" pursuant to 115  
division (C)(1) of this section, except that the tax commissioner, 116  
for good cause shown and to the extent ~~he~~ the commissioner 117  
considers appropriate, may extend the time period specified in 118  
division (C)(2)(c) or (d) of this section, or both. Nothing in 119  
division (C)(3) of this section shall be construed to prevent a 120  
nursing home, residential care facility, or adult care facility 121  
from qualifying as a "home for the aged" if, upon proper 122  
application made pursuant to division (B) of this section, it is 123  
found to meet the requirements of divisions (A) and (B) of this 124  
section. 125

**Sec. 5709.12.** (A) As used in this section, "independent 126  
living facilities" means any residential housing facilities and 127  
related property that are not a nursing home, residential care 128  
facility, or adult care facility as defined in division (A) of 129  
section 5701.13 of the Revised Code. 130

(B) Lands, houses, and other buildings belonging to a county, 131  
township, or municipal corporation and used exclusively for the 132  
accommodation or support of the poor, or leased to the state or 133  
any political subdivision for public purposes shall be exempt from 134  
taxation. Real and tangible personal property belonging to 135  
institutions that is used exclusively for charitable purposes 136

shall be exempt from taxation, including real property belonging  
to an institution that is a nonprofit corporation that receives a  
grant under the Thomas Alva Edison grant program authorized by  
division (C) of section 122.33 of the Revised Code at any time  
during the tax year and being held for leasing or resale to  
others. If, at any time during a tax year for which such property  
is exempted from taxation, the corporation ceases to ~~qualify~~  
qualify for such a grant, the director of development shall notify  
the tax commissioner, and the tax commissioner shall cause the  
property to be restored to the tax list beginning with the  
following tax year. All property owned and used by a nonprofit  
organization exclusively for a home for the aged, as defined in  
section 5701.13 of the Revised Code, also shall be exempt from  
taxation.

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(C)(1) If a home for the aged described in division (B)(1) of  
section 5701.13 of the Revised Code is operated in conjunction  
with or at the same site as independent living facilities, the  
exemption granted in division (B) of this section shall include  
kitchen, dining room, clinic, entry ways, maintenance and storage  
areas, and land necessary for access commonly used by both  
residents of the home for the aged and residents of the  
independent living facilities. Other facilities commonly used by  
both residents of the home for the aged and residents of  
independent living units shall be exempt from taxation only if the  
other facilities are used primarily by the residents of the home  
for the aged. Vacant land currently unused by the home, and  
independent living facilities and the lands connected with them  
are not exempt from taxation. Except as provided in division (A)  
of section 5709.121 of the Revised Code, property of a home leased  
for nonresidential purposes is not exempt from taxation.

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(2) Independent living facilities are exempt from taxation if  
they are operated in conjunction with or at the same site as a

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home for the aged described in division (B)(2) of section 5701.13 169  
of the Revised Code; operated by a corporation, association, or 170  
trust described in division (B)(1)(b) of that section; operated 171  
exclusively for the benefit of members of the corporation, 172  
association, or trust who are retired, aged, or infirm; and 173  
provided to those members without charge in consideration of their 174  
service, without compensation, to a charitable, religious, 175  
fraternal, or educational institution. For the purposes of 176  
division (C)(2) of this section, "compensation" does not include 177  
furnishing room and board, clothing, health care, or other 178  
necessities, or stipends or other de minimis payments to defray 179  
the cost thereof. 180

(D)(1) A private corporation established under federal law, 181  
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 182  
amended, the objects of which include encouraging the advancement 183  
of science generally, or of a particular branch of science, the 184  
promotion of scientific research, the improvement of the 185  
qualifications and usefulness of scientists, or the increase and 186  
diffusion of scientific knowledge is conclusively presumed to be a 187  
charitable or educational institution. A private corporation 188  
established as a nonprofit corporation under the laws of a state, 189  
that is exempt from federal income taxation under section 190  
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 191  
U.S.C.A. 1, as amended, and has as its principal purpose one or 192  
more of the foregoing objects, also is conclusively presumed to be 193  
a charitable or educational institution. 194

The fact that an organization described in this division 195  
operates in a manner that results in an excess of revenues over 196  
expenses shall not be used to deny the exemption granted by this 197  
section, provided such excess is used, or is held for use, for 198  
exempt purposes or to establish a reserve against future 199  
contingencies; and, provided further, that such excess may not be 200

distributed to individual persons or to entities that would not be  
entitled to the tax exemptions provided by this chapter. Nor shall  
the fact that any scientific information diffused by the  
organization is of particular interest or benefit to any of its  
individual members be used to deny the exemption granted by this  
section, provided that such scientific information is available to  
the public for purchase or otherwise.

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(2) Division (D)(2) of this section does not apply to real  
property exempted from taxation under this section and division  
(C) of section 5709.121 of the Revised Code and belonging to a  
nonprofit corporation described in division (D)(1) of this section  
that has received a grant under the Thomas Alva Edison grant  
program authorized by division (C) of section 122.33 of the  
Revised Code during any of the tax years the property was exempted  
from taxation.

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When a private corporation described in division (D)(1) of  
this section sells all or any portion of a tract, lot, or parcel  
of real estate that has been exempt from taxation under this  
section and section 5709.121 of the Revised Code, the portion sold  
shall be restored to the tax list for the year following the year  
of the sale and a charge shall be levied against the sold property  
in an amount equal to the tax savings on such property during the  
four tax years preceding the year the property is placed on the  
tax list. The tax savings equals the amount of the additional  
taxes that would have been levied if such property had not been  
exempt from taxation.

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The charge constitutes a lien of the state upon such property  
as of the first day of January of the tax year in which the charge  
is levied and continues until discharged as provided by law. The  
charge may also be remitted for all or any portion of such  
property that the tax commissioner determines is entitled to  
exemption from real property taxation for the year such property

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is restored to the tax list under any provision of the Revised Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, upon an application for exemption covering the year such property is restored to the tax list filed under section 5715.27 of the Revised Code.

(E) Real property held by an organization organized and operated exclusively for charitable purposes as described under section 501(c)(3) of the Internal Revenue Code and exempt from federal taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose of constructing or rehabilitating residences for eventual transfer to qualified low-income families through sale, lease, or land installment contract, shall be exempt from taxation.

The exemption shall commence on the day title to the property is transferred to the organization and shall continue to the end of the tax year in which the organization transfers title to the property to a qualified low-income family. In no case shall the exemption extend beyond the second succeeding tax year following the year in which the title was transferred to the organization. If the title is transferred to the organization and from the organization to a qualified low-income family in the same tax year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the tax year in which title is transferred to the organization shall be remitted by the county auditor for each day of the year that title is held by the organization.

Upon transferring the title to another person, the organization shall file with the county auditor an affidavit affirming that the title was transferred to a qualified low-income family or that the title was not transferred to a qualified

low-income family, as the case may be; if the title was  
transferred to a qualified low-income family, the affidavit shall  
identify the transferee by name. If the organization transfers  
title to the property to anyone other than a qualified low-income  
family, the exemption, if it has not previously expired, shall  
terminate, and the property shall be restored to the tax list for  
the year following the year of the transfer and a charge shall be  
levied against the property in an amount equal to the amount of  
additional taxes that would have been levied if such property had  
not been exempt from taxation. The charge constitutes a lien of  
the state upon such property as of the first day of January of the  
tax year in which the charge is levied and continues until  
discharged as provided by law.

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The application for exemption shall be filed as otherwise  
required under section 5715.27 of the Revised Code, except that  
the organization holding the property shall file with its  
application documentation substantiating its status as an  
organization organized and operated exclusively for charitable  
purposes under section 501(c)(3) of the Internal Revenue Code and  
its qualification for exemption from federal taxation under  
section 501(a) of the Internal Revenue Code, and affirming its  
intention to construct or rehabilitate the property for the  
eventual transfer to qualified low-income families.

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As used in this division, "qualified low-income family" means  
a family whose income does not exceed two hundred per cent of the  
official federal poverty guidelines as revised annually in  
accordance with section 673(2) of the "Omnibus Budget  
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as  
amended, for a family size equal to the size of the family whose  
income is being determined.

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**Section 2.** That existing sections 5701.13 and 5709.12 of the

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Revised Code are hereby repealed. 296

**Section 3.** The amendment by this act of sections 5701.13 and 297  
5709.12 of the Revised Code applies to tax year 2002 and 298  
thereafter. 299