

As Reported by the House Ways and Means Committee

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Sub. H. B. No. 416

REPRESENTATIVES Trakas, Evans, Seitz, Sullivan, Seaver, Patton, Schmidt,
Jerse, Oakar, Carano, Faber, Collier, Allen, Schneider, Schaffer, Britton,
Williams, Latta, Kilbane, Gilb, Niehaus, Callender, Hartnett, Brown, Olman

A B I L L

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

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

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

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

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the 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 chattels, which compensation, interest, or purchase price is unreasonably high~~+~~.

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

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

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

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

(C)(1) If a corporation, unincorporated association, or trust described in division (B)(1)(b) of this section is granted a certificate of need pursuant to section 3702.52 of the Revised Code to construct, add to, or otherwise modify a nursing home, or is given approval pursuant to section 3791.04 of the Revised Code to construct, add to, or otherwise modify a residential care facility or adult care facility and if the corporation, association, or trust submits an affidavit to the tax commissioner stating that, commencing on the date of licensure and continuing

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 137
to an institution that is a nonprofit corporation that receives a 138
grant under the Thomas Alva Edison grant program authorized by 139
division (C) of section 122.33 of the Revised Code at any time 140
during the tax year and being held for leasing or resale to 141

others. If, at any time during a tax year for which such property 142
is exempted from taxation, the corporation ceases to ~~qualify~~ 143
qualify for such a grant, the director of development shall notify 144
the tax commissioner, and the tax commissioner shall cause the 145
property to be restored to the tax list beginning with the 146
following tax year. All property owned and used by a nonprofit 147
organization exclusively for a home for the aged, as defined in 148
section 5701.13 of the Revised Code, also shall be exempt from 149
taxation. 150

(C)(1) If a home for the aged described in division (B)(1) of 151
section 5701.13 of the Revised Code is operated in conjunction 152
with or at the same site as independent living facilities, the 153
exemption granted in division (B) of this section shall include 154
kitchen, dining room, clinic, entry ways, maintenance and storage 155
areas, and land necessary for access commonly used by both 156
residents of the home for the aged and residents of the 157
independent living facilities. Other facilities commonly used by 158
both residents of the home for the aged and residents of 159
independent living units shall be exempt from taxation only if the 160
other facilities are used primarily by the residents of the home 161
for the aged. Vacant land currently unused by the home, and 162
independent living facilities and the lands connected with them 163
are not exempt from taxation. Except as provided in division (A) 164
of section 5709.121 of the Revised Code, property of a home leased 165
for nonresidential purposes is not exempt from taxation. 166

(2) Independent living facilities are exempt from taxation if 167
they are operated in conjunction with or at the same site as a 168
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 201
entitled to the tax exemptions provided by this chapter. Nor shall 202
the fact that any scientific information diffused by the 203
organization is of particular interest or benefit to any of its 204
individual members be used to deny the exemption granted by this 205

section, provided that such scientific information is available to the public for purchase or otherwise.

(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.

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.

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 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.

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(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.

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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.

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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

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terminate, and the property shall be restored to the tax list for 270
the year following the year of the transfer and a charge shall be 271
levied against the property in an amount equal to the amount of 272
additional taxes that would have been levied if such property had 273
not been exempt from taxation. The charge constitutes a lien of 274
the state upon such property as of the first day of January of the 275
tax year in which the charge is levied and continues until 276
discharged as provided by law. 277

The application for exemption shall be filed as otherwise 278
required under section 5715.27 of the Revised Code, except that 279
the organization holding the property shall file with its 280
application documentation substantiating its status as an 281
organization organized and operated exclusively for charitable 282
purposes under section 501(c)(3) of the Internal Revenue Code and 283
its qualification for exemption from federal taxation under 284
section 501(a) of the Internal Revenue Code, and affirming its 285
intention to construct or rehabilitate the property for the 286
eventual transfer to qualified low-income families. 287

As used in this division, "qualified low-income family" means 288
a family whose income does not exceed two hundred per cent of the 289
official federal poverty guidelines as revised annually in 290
accordance with section 673(2) of the "Omnibus Budget 291
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 292
amended, for a family size equal to the size of the family whose 293
income is being determined. 294

Section 2. That existing sections 5701.13 and 5709.12 of the 295
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