

As Introduced

**129th General Assembly
Regular Session
2011-2012**

S. B. No. 370

Senator Schiavoni

Cosponsors: Senators Lehner, Seitz, Turner

—

A B I L L

To amend section 5709.12 of the Revised Code to 1
specify that a nonprofit corporation, the 2
principal purpose of which is operating a halfway 3
house, community-based correctional facility, or 4
other venue offering rehabilitative residential 5
programming to criminal offenders is presumed to 6
be a charitable institution exempt from property 7
taxation. 8

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

Section 1. That section 5709.12 of the Revised Code be 9
amended to read as follows: 10

Sec. 5709.12. (A) As used in this section, "independent 11
living facilities" means any residential housing facilities and 12
related property that are not a nursing home, residential care 13
facility, or residential facility as defined in division (A) of 14
section 5701.13 of the Revised Code. 15

(B) Lands, houses, and other buildings belonging to a county, 16
township, or municipal corporation and used exclusively for the 17
accommodation or support of the poor, or leased to the state or 18
any political subdivision for public purposes shall be exempt from 19

taxation. Real and tangible personal property belonging to 20
institutions that is used exclusively for charitable purposes 21
shall be exempt from taxation, including real property belonging 22
to an institution that is a nonprofit corporation that receives a 23
grant under the Thomas Alva Edison grant program authorized by 24
division (C) of section 122.33 of the Revised Code at any time 25
during the tax year and being held for leasing or resale to 26
others. If, at any time during a tax year for which such property 27
is exempted from taxation, the corporation ceases to qualify for 28
such a grant, the director of development shall notify the tax 29
commissioner, and the tax commissioner shall cause the property to 30
be restored to the tax list beginning with the following tax year. 31
All property owned and used by a nonprofit organization 32
exclusively for a home for the aged, as defined in section 5701.13 33
of the Revised Code, also shall be exempt from taxation. 34

(C)(1) If a home for the aged described in division (B)(1) of 35
section 5701.13 of the Revised Code is operated in conjunction 36
with or at the same site as independent living facilities, the 37
exemption granted in division (B) of this section shall include 38
kitchen, dining room, clinic, entry ways, maintenance and storage 39
areas, and land necessary for access commonly used by both 40
residents of the home for the aged and residents of the 41
independent living facilities. Other facilities commonly used by 42
both residents of the home for the aged and residents of 43
independent living units shall be exempt from taxation only if the 44
other facilities are used primarily by the residents of the home 45
for the aged. Vacant land currently unused by the home, and 46
independent living facilities and the lands connected with them 47
are not exempt from taxation. Except as provided in division 48
(A)(1) of section 5709.121 of the Revised Code, property of a home 49
leased for nonresidential purposes is not exempt from taxation. 50

(2) Independent living facilities are exempt from taxation if 51

they are operated in conjunction with or at the same site as a 52
home for the aged described in division (B)(2) of section 5701.13 53
of the Revised Code; operated by a corporation, association, or 54
trust described in division (B)(1)(b) of that section; operated 55
exclusively for the benefit of members of the corporation, 56
association, or trust who are retired, aged, or infirm; and 57
provided to those members without charge in consideration of their 58
service, without compensation, to a charitable, religious, 59
fraternal, or educational institution. For the purposes of 60
division (C)(2) of this section, "compensation" does not include 61
furnishing room and board, clothing, health care, or other 62
necessities, or stipends or other de minimis payments to defray 63
the cost thereof. 64

(D)(1) A private corporation established under federal law, 65
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 66
amended, the objects of which include encouraging the advancement 67
of science generally, or of a particular branch of science, the 68
promotion of scientific research, the improvement of the 69
qualifications and usefulness of scientists, or the increase and 70
diffusion of scientific knowledge is conclusively presumed to be a 71
charitable or educational institution. A private corporation 72
established as a nonprofit corporation under the laws of a state, 73
that is exempt from federal income taxation under section 74
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 75
U.S.C.A. 1, as amended, and has as its principal purpose one or 76
more of the foregoing objects, also is conclusively presumed to be 77
a charitable or educational institution. 78

The fact that an organization described in this division 79
operates in a manner that results in an excess of revenues over 80
expenses shall not be used to deny the exemption granted by this 81
section, provided such excess is used, or is held for use, for 82
exempt purposes or to establish a reserve against future 83

contingencies; and, provided further, that such excess may not be 84
distributed to individual persons or to entities that would not be 85
entitled to the tax exemptions provided by this chapter. Nor shall 86
the fact that any scientific information diffused by the 87
organization is of particular interest or benefit to any of its 88
individual members be used to deny the exemption granted by this 89
section, provided that such scientific information is available to 90
the public for purchase or otherwise. 91

(2) Division (D)(2) of this section does not apply to real 92
property exempted from taxation under this section and division 93
(A)(3) of section 5709.121 of the Revised Code and belonging to a 94
nonprofit corporation described in division (D)(1) of this section 95
that has received a grant under the Thomas Alva Edison grant 96
program authorized by division (C) of section 122.33 of the 97
Revised Code during any of the tax years the property was exempted 98
from taxation. 99

When a private corporation described in division (D)(1) of 100
this section sells all or any portion of a tract, lot, or parcel 101
of real estate that has been exempt from taxation under this 102
section and section 5709.121 of the Revised Code, the portion sold 103
shall be restored to the tax list for the year following the year 104
of the sale and, except in connection with a sale and transfer of 105
such a tract, lot, or parcel to a county land reutilization 106
corporation organized under Chapter 1724. of the Revised Code, a 107
charge shall be levied against the sold property in an amount 108
equal to the tax savings on such property during the four tax 109
years preceding the year the property is placed on the tax list. 110
The tax savings equals the amount of the additional taxes that 111
would have been levied if such property had not been exempt from 112
taxation. 113

The charge constitutes a lien of the state upon such property 114
as of the first day of January of the tax year in which the charge 115

is levied and continues until discharged as provided by law. The 116
charge may also be remitted for all or any portion of such 117
property that the tax commissioner determines is entitled to 118
exemption from real property taxation for the year such property 119
is restored to the tax list under any provision of the Revised 120
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 121
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 122
upon an application for exemption covering the year such property 123
is restored to the tax list filed under section 5715.27 of the 124
Revised Code. 125

(E) Real property held by an organization organized and 126
operated exclusively for charitable purposes as described under 127
section 501(c)(3) of the Internal Revenue Code and exempt from 128
federal taxation under section 501(a) of the Internal Revenue 129
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 130
of constructing or rehabilitating residences for eventual transfer 131
to qualified low-income families through sale, lease, or land 132
installment contract, shall be exempt from taxation. 133

The exemption shall commence on the day title to the property 134
is transferred to the organization and shall continue to the end 135
of the tax year in which the organization transfers title to the 136
property to a qualified low-income family. In no case shall the 137
exemption extend beyond the second succeeding tax year following 138
the year in which the title was transferred to the organization. 139
If the title is transferred to the organization and from the 140
organization to a qualified low-income family in the same tax 141
year, the exemption shall continue to the end of that tax year. 142
The proportionate amount of taxes that are a lien but not yet 143
determined, assessed, and levied for the tax year in which title 144
is transferred to the organization shall be remitted by the county 145
auditor for each day of the year that title is held by the 146
organization. 147

Upon transferring the title to another person, the 148
organization shall file with the county auditor an affidavit 149
affirming that the title was transferred to a qualified low-income 150
family or that the title was not transferred to a qualified 151
low-income family, as the case may be; if the title was 152
transferred to a qualified low-income family, the affidavit shall 153
identify the transferee by name. If the organization transfers 154
title to the property to anyone other than a qualified low-income 155
family, the exemption, if it has not previously expired, shall 156
terminate, and the property shall be restored to the tax list for 157
the year following the year of the transfer and a charge shall be 158
levied against the property in an amount equal to the amount of 159
additional taxes that would have been levied if such property had 160
not been exempt from taxation. The charge constitutes a lien of 161
the state upon such property as of the first day of January of the 162
tax year in which the charge is levied and continues until 163
discharged as provided by law. 164

The application for exemption shall be filed as otherwise 165
required under section 5715.27 of the Revised Code, except that 166
the organization holding the property shall file with its 167
application documentation substantiating its status as an 168
organization organized and operated exclusively for charitable 169
purposes under section 501(c)(3) of the Internal Revenue Code and 170
its qualification for exemption from federal taxation under 171
section 501(a) of the Internal Revenue Code, and affirming its 172
intention to construct or rehabilitate the property for the 173
eventual transfer to qualified low-income families. 174

As used in this division, "qualified low-income family" means 175
a family whose income does not exceed two hundred per cent of the 176
official federal poverty guidelines as revised annually in 177
accordance with section 673(2) of the "Omnibus Budget 178
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 179

amended, for a family size equal to the size of the family whose
income is being determined.

(F) Real property held by a county land reutilization
corporation organized under Chapter 1724. of the Revised Code
shall be exempt from taxation. Notwithstanding section 5715.27 of
the Revised Code, a county land reutilization corporation is not
required to apply to any county or state agency in order to
qualify for the exemption.

The exemption shall commence on the day title to the property
is transferred to the corporation and shall continue to the end of
the tax year in which the instrument transferring title from the
corporation to another owner is recorded, if the use to which the
other owner puts the property does not qualify for an exemption
under this section or any other section of the Revised Code. If
the title to the property is transferred to the corporation and
from the corporation 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 corporation
shall be remitted by the county auditor for each day of the year
that title is held by the corporation.

Upon transferring the title to another person, the
corporation shall file with the county auditor an affidavit
affirming that the title was transferred to such other person and
shall identify the transferee by name. If the corporation
transfers title to the property to anyone that does not qualify or
the use to which the property is put does not qualify the property
for an exemption under this section or any other section of the
Revised Code, 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. 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 212
property had not been exempt from taxation. The charge constitutes 213
a lien of the state upon such property as of the first day of 214
January of the tax year in which the charge is levied and 215
continues until discharged as provided by law. 216

In lieu of the application for exemption otherwise required 217
to be filed as required under section 5715.27 of the Revised Code, 218
a count land reutilization corporation holding the property shall, 219
upon the request of any county or state agency, submit its 220
articles of incorporation substantiating its status as a county 221
land reutilization corporation. 222

(G) A private corporation established as a nonprofit 223
corporation under the laws of a state and that is exempt from 224
federal income taxation under section 501(c)(3) of the Internal 225
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, 226
is conclusively presumed to be a charitable institution under this 227
section and section 5709.121 of the Revised Code if the principal 228
purpose of the corporation is operating one or more halfway 229
houses, community-based correctional facilities, or other venues 230
that provide residential programming and services to criminal 231
offenders including, but not limited to, drug and alcohol 232
counseling, education services, employment counseling, anger 233
management counseling, and cognitive behavioral therapy. 234

Section 2. That existing section 5709.12 of the Revised Code 235
is hereby repealed. 236