



H.B. 416

124th General Assembly
(As Introduced)

Reps. Trakas, Evans, Seitz, Sullivan, Seaver, Patton, Schmidt, Jerse, Oakar, Carano, Faber, Collier, Allen, Schneider, Schaffer, Britton, Williams

BILL SUMMARY

- Exempts from property taxation any church-owned residence occupied by retired clergy or retired members of a religious order.

CONTENT AND OPERATION

Exemption of church property--current law

(R.C. 5709.07(A)(2))

Buildings or structures "used exclusively for public worship" are exempted from property taxation. The attached land also is exempted as long as the land is "necessary for the proper occupancy, use, and enjoyment" of the building or structure and is not leased or otherwise used with a view to profit. For the purpose of property tax exemption, "public worship" means "the open and free celebration or observance of the rites and ordinances of a religious organization."¹ And "exclusively" does not mean "only": it means that a building or structure must be used in a "principal, primary, and essential way to facilitate the public worship."² Thus, using property in ways that are incidental to public worship will not necessarily disqualify property for tax exemption as long as the property is primarily devoted to public worship.

In practice, whether a building is used exclusively for public worship, and whether land is necessary for the proper occupancy, use, or enjoyment of such a building, are questions of fact to be decided on the basis of the circumstances

¹ See, e.g., *Gerke v. Purcell*, 25 Ohio St. 229 (1874), *Watterson v. Halliday*, 77 Ohio St. 150 (1907).

² See *Faith Fellowship Ministries, Inc. v. Limbach*, 32 Ohio St.3d 432 (1987).

presented by each case. With respect to church-owned buildings that are used as residences, tax exemption generally has been denied on the ground that residences are not open to the public for worship, even if the residence supports public worship by housing clergy or sextons or if the clergy perform some religious duties there.³ If a building has several distinct rooms or areas, some of which are used for public worship and others of which are not, and the areas can be precisely delineated, the property may be "split listed," allowing the public worship areas to be exempted and the other areas to be taxed. (R.C. 5713.04.)

Exemption for residences of retired clergy

(R.C. 5709.07(A)(4))

The bill exempts church-owned residences occupied by members of the clergy or a religious order who are retired from service to the church.⁴ The exemption for such residences includes as much of the attached land as is necessary for the proper occupancy, use, and enjoyment of the residence as a residence, as long as the land is not leased or otherwise used with a view to profit.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-23-01	pp. 974-975

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³ See, e.g., *Gerke v. Purcell, Watterson v. Halliday, New Haven Church of Missionary Baptist v. BTA*, 9 Ohio St. 2d 53 (1967).

⁴ For the purpose of property tax exemption, "church" means "a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person." (R.C. 5709.07(C).)