



Ohio Legislative Service Commission

Bill Analysis

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S.B. 76

130th General Assembly
(As Introduced)

Sens. Schiavoni, Seitz

BILL SUMMARY

- Specifies that a nonprofit operator of a halfway house or community-based correctional facility is presumed to be a charitable institution whose property is eligible for property tax exemption.

CONTENT AND OPERATION

Property tax-exempt status of nonprofit-operated community-based correctional facilities

The bill specifies that a nonprofit operator of a halfway house or community-based correctional facility is presumed to be a charitable institution whose property is eligible for property tax exemption. To qualify, the nonprofit corporation must be exempt from federal income taxation under section 501(c)(3) of Internal Revenue Code and be engaged primarily in operating one or more halfway houses, community-based correctional facilities, or other facilities that provide housing and services such as alcohol and drug counseling, employment counseling, or cognitive behavioral therapy to criminal offenders.¹ As discussed below, the property of such an organization will qualify for tax exemption if it is used "exclusively for charitable purposes."

¹ R.C. 5709.12(G). R.C. 2301.51 to 2301.58 allows one or more counties to create a community-based correctional facility for use by the county or counties' courts of common pleas in sentencing or placing offenders. The facility is governed by a governing board appointed by the board of county commissioners and an advisory board composed of common pleas court judges. The governing board may contract with a "nonprofit or private entity" to operate the facility.

Charitable use property tax exemption

Under continuing law, property "used exclusively for charitable purposes" is exempt from property taxation.² In general, the owner of the property need not be a charitable institution; it is the use of the property, rather than the charitable nature of the property owner, that determines eligibility for the exemption.

The phrase "used exclusively for charitable purposes" is not specifically defined in statute. Consequently, determining whether a particular parcel is used for a "charitable" purpose is greatly dependent on the particular facts and circumstances of each property.³ This determination typically requires a comparison of the property's circumstances with the circumstances dealt with in prior court decisions.

In addition to satisfying the common law criteria for charitable use, the property must not be used with a view to profit. However, if the use of property primarily for a charitable purpose happens to generate a surplus of revenue over expenses, eligibility for the exemption is not necessarily precluded so long as the surplus is not diverted to private profit – for example, a hospital that cares for the poor at no charge but that generates a surplus from paying patients.⁴

Continuing law also includes several exemptions for specific types of nonprofit corporations. For example, specific exemptions exist for homes for the aged, property held by a charitable organization for the purpose of constructing or rehabilitating residences for eventual transfer to low-income families (e.g., Habitat for Humanity), and property owned by a nonprofit corporation that receives a Thomas Alva Edison Grant and that holds the property for leasing or resale to others.⁵

HISTORY

ACTION	DATE
Introduced	03-12-13

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² R.C. 5709.12(B).

³ See *Cleveland Osteopathic Hospital v. Zangerle*, 153 Ohio St. 222, 225-26 (1950).

⁴ See *Vick v. Cleveland Memorial Hospital Medical Foundation*, 2 Ohio St.2d 30 (1965).

⁵ R.C. 5709.12(B), (C), and (E).

