

SENATE BILL 408

By Stevens

AN ACT to amend Tennessee Code Annotated, Section 67-5-207 and Section 67-5-212, relative to exemptions.

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

SECTION 1. Tennessee Code Annotated, Section 67-5-207(d), is amended by deleting the subsection and substituting instead the following:

Subject to the general requirements of this section for exemption of federally assisted housing, there shall also be exempted under this section those properties owned by not-for-profit organizations and funded under the HOME Investment Partnerships Program, compiled in 42 U.S.C. § 12701 et seq., or a housing trust fund established in accordance with title 7, chapter 8 or title 13, chapter 23, part 5. To qualify, the property must be used for permanent housing for low income or very low income persons who are elderly or have a disability.

SECTION 2. Tennessee Code Annotated, Section 67-5-212(a), is amended by deleting the subsection and substituting instead the following:

(1) There shall be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific, or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by an exempt institution, but occupied and actually used by:

(A) Another religious, charitable, scientific, or nonprofit educational institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the occupying institution was created or exists;

(B) An exempt institution that originated as part of a single exempt institution and that continues to use the property for the same religious, charitable, scientific, or nonprofit educational purposes, whether by charter, contract, or other agreement or arrangement; or

(C) The United States government, the state of Tennessee, or any agency or political subdivision thereof.

(2) In determining the exemption applicable to a post-secondary educational institution, there shall be a presumption that the entire original campus of an institution chartered before 1930 is an historical and integral entity, and is exempt so long as no particular portion of such campus is used for nonexempt purposes.

(3)

(A) The property of such institution shall not be exempt, if:

(i) The owner, or any stockholder, officer, member, or employee of such institution shall receive or may be lawfully entitled to receive any pecuniary profit from the operations of that property in competition with like property owned by others that is not exempt, except reasonable compensation for services in effecting one (1) or more of such purposes, or as proper beneficiaries of its strictly religious, charitable, scientific, or educational purposes; or

(ii) The organization thereof for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such institution, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one (1) or more of these purposes.

(B) The real property of any such institution not so used exclusively for carrying out thereupon one (1) or more of such purposes, but leased or otherwise used for other purposes, whether the income received therefrom be used for one (1) or more of such purposes or not, shall not be exempt; but, if a portion only of any lot or building of any such institution is used purely and exclusively for carrying out thereupon one (1) or more of such purposes of such institution, then such lot or building shall be so exempt only to the extent of the value of the portion so used, and the remaining or other portion shall be subject to taxation.

(4) No church shall be granted an exemption on more than one (1) parsonage, and an exempt parsonage may not include within the exemption more than three (3) acres.

(5) For property owned by a corporation organized for the exclusive purpose of holding title to property for use by any organization that itself qualifies for exemption under this section, only such property of the corporation, or such parts thereof, as would be entitled to an exemption under this section if owned directly by such organization shall be exempt from property taxation.

SECTION 3. Tennessee Code Annotated, Section 67-5-212(b), is amended by deleting the subsection and substituting instead the following:

(1) Any owner of real or personal property claiming exemption under this section or § 67-5-207, § 67-5-213, § 67-5-219, or as otherwise required by law, shall file an application for the exemption with the state board of equalization on a form prescribed by the board and supply such further information as the board may require to determine whether the property qualifies for exemption. No property that is subject to these application requirements shall be exempted from property taxes unless the application has been approved in writing by the board. An application shall be deemed filed on the

date it is received by the board or, if mailed, on the postmark date. The applicant shall provide a copy of the application with any supporting materials to the assessor of property of the county in which the property is located. An application for exemption pursuant to this section or any other section referring to these procedures shall be treated as an appeal for purposes of § 67-5-1512.

(2) The board shall make an initial determination granting or denying exemption through its staff designee, who shall send written notice of the initial determination to the applicant and the assessor of property. Written notice includes notification by electronic means and notice may be preserved in digital or electronic format. Either the assessor of property or the applicant may appeal the initial determination to the board and shall be entitled to a hearing prior to any final determination of exemption. The assessor shall retain copies of any approved exemptions in paper, electronic, or digital format. Upon approval of exemption, it is not necessary that the applicant reapply each year, but the exemption shall not be transferable or assignable and the applicant shall promptly report to the assessor any change in the use or ownership of the property that might affect its exempt status. The board may by rule impose a filing fee for processing applications for exemption. Such filing fee shall not exceed one hundred twenty dollars (\$120) and shall be proportionate to the value of the property at issue. For purposes of this section, "filing" means one (1) submission that may include multiple parcels, including real and personal property, with a clear nexus to one (1) exemption determination.

(3)

(A) Any institution claiming an exemption under this section that has not previously filed an application for and been granted an exemption for a parcel must file an application for exemption with the state board of equalization by May 20 of the year for which exemption is sought. If the application is approved, the

exemption will be effective as of January 1 of the year of application or as of the date the exempt use of such parcel began, whichever is later. If application is made after May 20 of the year for which exemption is sought, but prior to the end of the year, the application may be approved but will be effective for only a portion of the year determined as follows:

(i) If application is filed within thirty (30) days after the exempt use of the property began, exemption will be effective as of the date the exempt use began; or

(ii) If application is filed more than thirty (30) days after the exempt use began, the exemption will be effective as of the date of application.

(B) If a religious institution acquires property that was duly exempt at the time of transfer from a transferor who had previously been approved for a religious use exemption of the property, or if a religious institution acquires property to replace its own exempt property, then the effective date of exemption shall be three (3) years prior to the date of application, or the date the acquiring institution began to use the property for religious purposes, whichever is later. The purpose of this subdivision (b)(3) is to provide continuity of exempt status for property transferred from one exempt religious institution to another in the specified circumstances. For purposes of this subdivision (b)(3), property transferred by a lender following foreclosure shall be deemed to have been transferred by the foreclosed debtor, whether or not the property was assessed in the name of the lender during the lender's possession.

(C) In any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010

federal census or any subsequent federal census, if a nonprofit educational institution which is a medical college acquires one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. This subdivision (b)(3)(C) shall apply to properties acquired before May 25, 2017, so that such properties are not subject to taxation under this chapter while owned by the exempt educational institution and used for one (1) or more of the exempt purposes for which the institution was created or exists; provided, however, that nothing in this subdivision (b)(3)(C) requires a county to refund any taxes that were collected prior to May 25, 2017.

(D) In any county with a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four-hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, or within a municipality located within such county, if a nonprofit children's hospital changes the use of one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. In determining the date that a qualifying institution begins using property for an exempt purpose, subsection (g) applies to the full

extent of both improvements and underlying real property so that the entire property, to the extent that the full value of underlying land and any improvements thereon, is considered to be occupied and used by the qualifying institution or its officers purely and exclusively for the institution's purposes from and after the commencement of construction of improvements. This subdivision (b)(3)(D) applies to properties acquired before May 15, 2018, so that such properties are not subject to taxation under this chapter while owned by the qualifying institution and used for one (1) or more of the exempt purposes for which the institution was created or exists, and any property taxes paid on such property that were collected prior to May 15, 2018, shall be refunded.

(4) All questions of exemption under this section shall be subject to review and final determination by the board; provided, that any determination by the board is subject to judicial review by petition of certiorari to the appropriate chancery court. All other provisions of law notwithstanding, no property shall be entitled to judicial review of its status under this statute, except as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and only after the exhaustion of administrative remedies as provided in this section.

(5) The state board of equalization may revoke any exemption approved under this section, either in whole or in part, if it determines that the exemption was approved on the basis of fraud, misrepresentation, or erroneous information, that the current owner of the property does not qualify for exemption, or that the property is not actually being used for an exempt purpose. Property is not actually being used for an exempt purpose if the property is not currently in use, has been abandoned, is not suitable for human habitation, or is being used for a nonexempt purpose. The executive secretary of the board may initiate proceedings for revocation on the executive secretary's own

motion or upon the written complaint of any person upon a determination of probable cause. Revocation shall not be retroactive, unless the order of revocation incorporates a finding of fraud or misrepresentation on the part of the applicant or failure of the applicant to give notice of a change in the use or ownership of the property as required by this section.

SECTION 4. Tennessee Code Annotated, Section 67-5-212(f), is amended by deleting the subsection.

SECTION 5. Tennessee Code Annotated, Section 67-5-212(g), is amended by deleting the subsection and substituting instead the following:

In the case of property that is owned by any religious, charitable, scientific, or educational institution and on which such institution constructs improvements to be occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists, the property may be exempt as follows:

(1) If construction of the improvements is completed within twelve (12) months of its commencement, the property, to the extent of the value of the land and the value of the improvements constructed thereon, shall be considered to be occupied and used by the institution or its officers purely and exclusively for the institution's purposes from and after, but not before, the commencement of construction of the improvements. Land shall be considered occupied and used by the institution to the extent it is reasonably necessary to support structures or site improvements associated with structures;

(2) If construction of the improvements is completed more than twelve (12) months after commencement, the property, to the extent of the value of the improvements constructed thereon for these purposes, shall be considered to be

occupied and used by the institution or its officers purely and exclusively for the institution's purposes from and after, but not before, the commencement of construction of the improvements and to the extent of such value shall be exempt from taxation;

(3) If the improvements upon completion are not so occupied and used, then no part of the value of the property shall be exempt from taxation during the construction of the improvements;

(4) If upon completion of the improvements a portion thereof is not so used and occupied, such portion shall not be exempt from taxation during construction of the improvements; and

(5) If the improvements upon completion are not occupied and used by such institution or its officers for a period of ten (10) years, purely and exclusively for carrying out thereupon one (1) or more of the purposes for which such institution was created or exists, the institution shall be liable for the full amount of property taxes that would otherwise have been due and payable during the period of construction, plus penalties and interest as provided in this title.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.