



Legislative Wrap-Up 2009: Property Tax Relief for Nonprofits

When nonprofit corporations own land that is in use for affordable housing they are entitled to property tax exemption in Florida. But “in use” means that the property is actually occupied by income eligible persons, such as when a nonprofit owns housing that is rented to income eligible people.



The problem that “in use” poses for nonprofits in the business of providing home ownership opportunities is that from the time the nonprofit takes title to land until it sells that property to the income eligible homebuyer, it is saddled with a property tax bill.

The 2009 Legislature addressed this issue with this statutory change contained in SB 360: Section 196.196

Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term “affirmative steps” means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.

If property owned by an organization granted an exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing

as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.

Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.

If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be assessed a penalty or interest.

The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.

Additional Property Tax Relief

Section 196.1978 has provided a real property tax exemption for nonprofits owning property that is used for affordable housing (extremely low to moderate income). The 2009 Legislature expanded the exemption to apply to Florida-based limited partnerships, the sole general partner of which is a nonprofit 501 (c) (3) corporation. This means that a tax credit development with a nonprofit general partner can claim tax exemption even though the limited partnership that owns the property is a for-profit entity. While benefiting truly non-profit developments, a caveat is that this provision can be abused if a for-profit developer uses a compliant nonprofit (who plays no meaningful role in the development's construction or long-term operations) to gain tax exemption for what is truly a for-profit operation.