

As Reported by the House Ways and Means Committee

131st General Assembly

Regular Session

2015-2016

Am. H. B. No. 409

Representative Green

**Cosponsors: Representatives Amstutz, Brenner, Grossman, Becker, Boccieri,
Hall, O'Brien, M., Smith, R., Stinziano, Leland, Hambley, Rogers**

A BILL

To amend section 5709.12 of the Revised Code to 1
exempt from property taxation any retail store 2
operated by a nonprofit housing organization 3
that sells primarily donated items suitable for 4
residential housing purposes. 5

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

Section 1. That section 5709.12 of the Revised Code be 6
amended to read as follows: 7

Sec. 5709.12. (A) As used in this section, "independent 8
living facilities" means any residential housing facilities and 9
related property that are not a nursing home, residential care 10
facility, or residential facility as defined in division (A) of 11
section 5701.13 of the Revised Code. 12

(B) Lands, houses, and other buildings belonging to a 13
county, township, or municipal corporation and used exclusively 14
for the accommodation or support of the poor, or leased to the 15
state or any political subdivision for public purposes shall be 16
exempt from taxation. Real and tangible personal property 17

belonging to institutions that is used exclusively for 18
charitable purposes shall be exempt from taxation, including 19
real property belonging to an institution that is a nonprofit 20
corporation that receives a grant under the Thomas Alva Edison 21
grant program authorized by division (C) of section 122.33 of 22
the Revised Code at any time during the tax year and being held 23
for leasing or resale to others. If, at any time during a tax 24
year for which such property is exempted from taxation, the 25
corporation ceases to qualify for such a grant, the director of 26
development shall notify the tax commissioner, and the tax 27
commissioner shall cause the property to be restored to the tax 28
list beginning with the following tax year. All property owned 29
and used by a nonprofit organization exclusively for a home for 30
the aged, as defined in section 5701.13 of the Revised Code, 31
also shall be exempt from taxation. 32

(C) (1) If a home for the aged described in division (B) (1) 33
of section 5701.13 of the Revised Code is operated in 34
conjunction with or at the same site as independent living 35
facilities, the exemption granted in division (B) of this 36
section shall include kitchen, dining room, clinic, entry ways, 37
maintenance and storage areas, and land necessary for access 38
commonly used by both residents of the home for the aged and 39
residents of the independent living facilities. Other facilities 40
commonly used by both residents of the home for the aged and 41
residents of independent living units shall be exempt from 42
taxation only if the other facilities are used primarily by the 43
residents of the home for the aged. Vacant land currently unused 44
by the home, and independent living facilities and the lands 45
connected with them are not exempt from taxation. Except as 46
provided in division (A) (1) of section 5709.121 of the Revised 47
Code, property of a home leased for nonresidential purposes is 48

not exempt from taxation. 49

(2) Independent living facilities are exempt from taxation 50
if they are operated in conjunction with or at the same site as 51
a home for the aged described in division (B) (2) of section 52
5701.13 of the Revised Code; operated by a corporation, 53
association, or trust described in division (B) (1) (b) of that 54
section; operated exclusively for the benefit of members of the 55
corporation, association, or trust who are retired, aged, or 56
infirm; and provided to those members without charge in 57
consideration of their service, without compensation, to a 58
charitable, religious, fraternal, or educational institution. 59
For the purposes of division (C) (2) of this section, 60
"compensation" does not include furnishing room and board, 61
clothing, health care, or other necessities, or stipends or 62
other de minimis payments to defray the cost thereof. 63

(D) (1) A private corporation established under federal 64
law, as defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 65
Stat. 1629, as amended, the objects of which include encouraging 66
the advancement of science generally, or of a particular branch 67
of science, the promotion of scientific research, the 68
improvement of the qualifications and usefulness of scientists, 69
or the increase and diffusion of scientific knowledge is 70
conclusively presumed to be a charitable or educational 71
institution. A private corporation established as a nonprofit 72
corporation under the laws of a state that is exempt from 73
federal income taxation under section 501(c) (3) of the Internal 74
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, 75
and that has as its principal purpose one or more of the 76
foregoing objects also is conclusively presumed to be a 77
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 84
be distributed to individual persons or to entities that would 85
not be entitled to the tax exemptions provided by this chapter. 86
Nor shall the fact that any scientific information diffused by 87
the organization is of particular interest or benefit to any of 88
its individual members be used to deny the exemption granted by 89
this section, provided that such scientific information is 90
available to 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 94
a nonprofit corporation described in division (D)(1) of this 95
section that has received a grant under the Thomas Alva Edison 96
grant program authorized by division (C) of section 122.33 of 97
the Revised Code during any of the tax years the property was 98
exempted 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 103
sold shall be restored to the tax list for the year following 104
the year of the sale and, except in connection with a sale and 105
transfer of such a tract, lot, or parcel to a county land 106
reutilization corporation organized under Chapter 1724. of the 107
Revised Code, a charge shall be levied against the sold property 108
in an amount equal to the tax savings on such property during 109

the four tax years preceding the year the property is placed on 110
the tax list. The tax savings equals the amount of the 111
additional taxes that would have been levied if such property 112
had not been exempt from taxation. 113

The charge constitutes a lien of the state upon such 114
property as of the first day of January of the tax year in which 115
the charge is levied and continues until discharged as provided 116
by law. The charge may also be remitted for all or any portion 117
of such property that the tax commissioner determines is 118
entitled to exemption from real property taxation for the year 119
such property is restored to the tax list under any provision of 120
the Revised Code, other than sections 725.02, 1728.10, 3735.67, 121
5709.40, 5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, 122
and 5709.84, upon an application for exemption covering the year 123
such property is restored to the tax list filed under section 124
5715.27 of the Revised Code. 125

(E) (1) 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 131
transfer to qualified low-income families through sale, lease, 132
or land installment contract, shall be exempt from taxation. 133

The exemption shall commence on the day title to the 134
property is transferred to the organization and shall continue 135
to the end of the tax year in which the organization transfers 136
title to the property to a qualified low-income family. In no 137
case shall the exemption extend beyond the second succeeding tax 138
year following the year in which the title was transferred to 139

the organization. If the title is transferred to the 140
organization and from the organization to a qualified low-income 141
family in the same tax year, the exemption shall continue to the 142
end of that tax year. The proportionate amount of taxes that are 143
a lien but not yet determined, assessed, and levied for the tax 144
year in which title is transferred to the organization shall be 145
remitted by the county auditor for each day of the year that 146
title is held by the 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- 150
income family or that the title was not transferred to a 151
qualified low-income family, as the case may be; if the title 152
was transferred to a qualified low-income family, the affidavit 153
shall identify the transferee by name. If the organization 154
transfers title to the property to anyone other than a qualified 155
low-income family, the exemption, if it has not previously 156
expired, shall terminate, and the property shall be restored to 157
the tax list for the year following the year of the transfer and 158
a charge shall be levied against the property in an amount equal 159
to the amount of additional taxes that would have been levied if 160
such property had not been exempt from taxation. The charge 161
constitutes a lien of the state upon such property as of the 162
first day of January of the tax year in which the charge is 163
levied and continues until 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 170

and 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" 175
means a family whose income does not exceed two hundred per cent 176
of the official federal poverty guidelines as revised annually 177
in 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 180
income is being determined. 181

(2) Real property constituting a retail store, including 182
the land on which the retail store is located, that is owned and 183
operated by an organization described in division (E) (1) of this 184
section shall be exempt from taxation if the retail store sells 185
primarily donated items suitable for residential housing 186
purposes and if the proceeds of such sales are used solely for 187
the purposes of the organization. 188

(F) (1) (a) Real property held by a county land 189
reutilization corporation organized under Chapter 1724. of the 190
Revised Code shall be exempt from taxation. Notwithstanding 191
section 5715.27 of the Revised Code, a county land reutilization 192
corporation is not required to apply to any county or state 193
agency in order to qualify for the exemption. 194

(b) Real property acquired or held by an electing 195
subdivision other than a county land reutilization corporation 196
on or after April 9, 2009, for the purpose of implementing an 197
effective land reutilization program or for a related public 198
purpose shall be exempt from taxation until sold or transferred 199
by the electing subdivision. Notwithstanding section 5715.27 of 200

the Revised Code, an electing subdivision is not required to 201
apply to any county or state agency in order to qualify for an 202
exemption with respect to property acquired or held for such 203
purposes on or after such date, regardless of how the electing 204
subdivision acquires the property. 205

As used in this section, "electing subdivision" and "land 206
reutilization program" have the same meanings as in section 207
5722.01 of the Revised Code, and "county land reutilization 208
corporation" means a county land reutilization corporation 209
organized under Chapter 1724. of the Revised Code and any 210
subsidiary wholly owned by such a county land reutilization 211
corporation that is identified as "a wholly owned subsidiary of 212
a county land reutilization corporation" in the deed of 213
conveyance transferring title to the subsidiary. 214

(2) An exemption authorized under division (F) (1) of this 215
section shall commence on the day title to the property is 216
transferred to the corporation or electing subdivision and shall 217
continue to the end of the tax year in which the instrument 218
transferring title from the corporation or subdivision to 219
another owner is recorded, if the use to which the other owner 220
puts the property does not qualify for an exemption under this 221
section or any other section of the Revised Code. If the title 222
to the property is transferred to the corporation and from the 223
corporation, or to the subdivision and from the subdivision, in 224
the same tax year, the exemption shall continue to the end of 225
that tax year. The proportionate amount of taxes that are a lien 226
but not yet determined, assessed, and levied for the tax year in 227
which title is transferred to the corporation or subdivision 228
shall be remitted by the county auditor for each day of the year 229
that title is held by the corporation or subdivision. 230

Upon transferring the title to another person, the 231
corporation or electing subdivision shall file with the county 232
auditor an affidavit or conveyance form affirming that the title 233
was transferred to such other person and shall identify the 234
transferee by name. If the corporation or subdivision transfers 235
title to the property to anyone that does not qualify or the use 236
to which the property is put does not qualify the property for 237
an exemption under this section or any other section of the 238
Revised Code, the exemption, if it has not previously expired, 239
shall terminate, and the property shall be restored to the tax 240
list for the year following the year of the transfer. A charge 241
shall be levied against the property in an amount equal to the 242
amount of additional taxes that would have been levied if such 243
property had not been exempt from taxation. The charge 244
constitutes a lien of the state upon such property as of the 245
first day of January of the tax year in which the charge is 246
levied and continues until discharged as provided by law. 247

In lieu of the application for exemption otherwise 248
required to be filed as required under section 5715.27 of the 249
Revised Code, a county land reutilization corporation holding 250
the property shall, upon the request of any county or state 251
agency, submit its articles of incorporation substantiating its 252
status as a county land reutilization corporation. 253

(G) Real property that is owned by an organization 254
described under section 501(c)(3) of the Internal Revenue Code 255
and exempt from federal income taxation under section 501(a) of 256
the Internal Revenue Code and that is used by that organization 257
exclusively for receiving, processing, or distributing human 258
blood, tissues, eyes, or organs or for research and development 259
thereof shall be exempt from taxation. 260

Section 2. That existing section 5709.12 of the Revised Code is hereby repealed.	261 262
Section 3. The amendment by this act of section 5709.12 of the Revised Code applies to tax year 2016 and thereafter and the tax years at issue in any application for exemption from taxation or any appeal from such an application pending before the Tax Commissioner, the Board of Tax Appeals, any Court of Appeals, or the Supreme Court on the effective date of this act and to the property that is the subject of any such application or appeal.	263 264 265 266 267 268 269 270
Section 4. Section 5709.12 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 483 and Sub. S.B. 172 of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.	271 272 273 274 275 276 277 278 279