

DRAFT UPDATES TO MCL 211.7o PROPOSED BY THE MICHIGAN DEPARTMENT OF TREASURY
211.7o NONPROFIT CHARITABLE INSTITUTION; EXEMPTION; DEFINITIONS.

SEC. 7o.

(1) REAL OR PERSONAL PROPERTY OWNED AND OCCUPIED BY A NONPROFIT CHARITABLE INSTITUTION WHILE OCCUPIED BY THAT NONPROFIT CHARITABLE INSTITUTION SOLELY FOR THE PURPOSES FOR WHICH THAT NONPROFIT CHARITABLE INSTITUTION WAS INCORPORATED IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT. **THE ASSESSOR OR THE DEPARTMENT OF TREASURY MAY REQUIRE AN APPLICANT FOR EXEMPTION, OR A RECIPIENT OF AN EXEMPTION, UNDER THIS SECTION TO COMPLETE AN APPLICATION AND TO PROVIDE OTHER DOCUMENTATION AND INFORMATION WHICH IS REASONABLY NECESSARY IN ORDER FOR THE ASSESSOR OR THE DEPARTMENT TO DETERMINE THE CLAIMANT'S ELIGIBILITY FOR EXEMPTION. AS USED IN THIS SUBSECTION, A "NONPROFIT CHARITABLE INSTITUTION" MUST MEET THE FOLLOWING CONDITIONS:**

(A) EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS SECTION, THE INSTITUTION MUST BE ORGANIZED AND OPERATED CHIEFLY, IF NOT SOLELY, FOR CHARITY, AS HEREAFTER DEFINED.

(B) EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS SECTION, THE INSTITUTION MUST NOT CHARGE FOR SERVICES MORE THAN WHAT IS NECESSARY FOR SUCCESSFUL MAINTENANCE OF THE INSTITUTION AND ITS SERVICES AND MUST HAVE A SPECIFIC POLICY ESTABLISHED TO ASSURE THAT ITS SERVICES ARE AVAILABLE TO THOSE IN NEED OF ITS CHARITY WHO CANNOT PAY OR HAVE A LIMITED ABILITY TO PAY FOR THOSE SERVICES.

(C) THE INSTITUTION NEED NOT MEET ANY MONETARY THRESHOLD OF CHARITY TO QUALIFY AS EXEMPT UNDER THIS SUBSECTION IF ITS OVERALL NATURE IS CHARITABLE.

(2) REAL OR PERSONAL PROPERTY OWNED AND OCCUPIED BY A CHARITABLE TRUST WHILE OCCUPIED BY THAT CHARITABLE TRUST SOLELY FOR THE CHARITABLE PURPOSES FOR WHICH THAT CHARITABLE TRUST WAS ESTABLISHED IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT **TO THE SAME EXTENT AND UNDER THE STANDARDS AS APPLY TO A NON-PROFIT CHARITABLE INSTITUTION.**

(3) REAL OR PERSONAL PROPERTY OWNED BY A NONPROFIT CHARITABLE INSTITUTION OR CHARITABLE TRUST THAT IS LEASED, LOANED, OR OTHERWISE MADE AVAILABLE TO ANOTHER NONPROFIT CHARITABLE INSTITUTION OR CHARITABLE TRUST OR TO A NONPROFIT HOSPITAL OR A NONPROFIT EDUCATIONAL INSTITUTION THAT IS OCCUPIED BY THAT NONPROFIT CHARITABLE INSTITUTION, CHARITABLE TRUST, NONPROFIT HOSPITAL, OR NONPROFIT EDUCATIONAL INSTITUTION SOLELY FOR THE PURPOSES FOR WHICH THAT NONPROFIT CHARITABLE INSTITUTION, CHARITABLE TRUST, NONPROFIT HOSPITAL, OR NONPROFIT EDUCATIONAL INSTITUTION WAS ORGANIZED OR ESTABLISHED AND THAT WOULD BE EXEMPT FROM TAXES COLLECTED UNDER THIS ACT IF THE REAL OR PERSONAL PROPERTY WERE OCCUPIED BY THE LESSOR NONPROFIT CHARITABLE INSTITUTION OR CHARITABLE TRUST SOLELY FOR THE PURPOSES FOR WHICH THE LESSOR CHARITABLE NONPROFIT INSTITUTION WAS ORGANIZED OR THE CHARITABLE TRUST WAS ESTABLISHED IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT.

(4) FOR TAXES LEVIED AFTER DECEMBER 31, 1997, REAL OR PERSONAL PROPERTY OWNED BY A NONPROFIT CHARITABLE INSTITUTION OR CHARITABLE TRUST THAT IS LEASED, LOANED, OR OTHERWISE MADE AVAILABLE TO A GOVERNMENTAL ENTITY IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT IF ALL OF THE FOLLOWING CONDITIONS ARE SATISFIED:

(a) THE REAL OR PERSONAL PROPERTY WOULD BE EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT UNDER SECTION 7m IF THE REAL OR PERSONAL PROPERTY WERE OWNED OR WERE BEING ACQUIRED PURSUANT TO AN INSTALLMENT PURCHASE AGREEMENT BY THE LESSEE GOVERNMENTAL ENTITY.

(b) THE REAL OR PERSONAL PROPERTY WOULD BE EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT IF OCCUPIED BY THE LESSOR NONPROFIT CHARITABLE INSTITUTION OR CHARITABLE TRUST SOLELY FOR THE PURPOSES FOR WHICH THE LESSOR CHARITABLE NONPROFIT INSTITUTION WAS ORGANIZED OR THE CHARITABLE TRUST WAS ESTABLISHED.

(5) REAL PROPERTY OWNED BY A QUALIFIED CONSERVATION ORGANIZATION THAT IS HELD FOR CONSERVATION PURPOSES AND THAT IS OPEN TO ALL RESIDENTS OF THIS STATE FOR EDUCATIONAL OR RECREATIONAL USE, INCLUDING, BUT NOT LIMITED TO, LOW-IMPACT, NONDESTRUCTIVE ACTIVITIES SUCH AS HIKING, BIRD WATCHING, CROSS-COUNTRY SKIING, OR SNOWSHOEING IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT. AS USED IN THIS SUBSECTION, "QUALIFIED CONSERVATION ORGANIZATION" MEANS A NONPROFIT CHARITABLE INSTITUTION OR A CHARITABLE TRUST THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

(a) IS ORGANIZED OR ESTABLISHED, AS REFLECTED IN ITS ARTICLES OF INCORPORATION OR TRUST DOCUMENTS, FOR THE PURPOSE OF ACQUIRING, MAINTAINING, AND PROTECTING NATURE SANCTUARIES, NATURE PRESERVES, AND NATURAL AREAS IN THIS STATE, THAT PREDOMINANTLY CONTAIN NATURAL HABITAT FOR FISH, WILDLIFE, AND PLANTS.

(b) IS REQUIRED UNDER ITS ARTICLES OF INCORPORATION, BYLAWS, OR TRUST DOCUMENTS TO HOLD IN PERPETUITY PROPERTY ACQUIRED FOR THE PURPOSES DESCRIBED IN SUBDIVISION (a) UNLESS BOTH OF THE FOLLOWING CONDITIONS ARE SATISFIED:

(i) THAT PROPERTY IS NO LONGER SUITABLE FOR THE PURPOSES DESCRIBED IN SUBDIVISION (a).

(ii) THE SALE OF THE PROPERTY IS APPROVED BY A MAJORITY VOTE OF THE MEMBERS OR TRUSTEES.

(c) ITS ARTICLES OF INCORPORATION, BYLAWS, OR TRUST DOCUMENTS PROHIBIT ANY OFFICER, SHAREHOLDER, BOARD MEMBER, EMPLOYEE, OR TRUSTEE OR THE FAMILY MEMBER OF AN OFFICER, SHAREHOLDER, BOARD MEMBER, EMPLOYEE, OR TRUSTEE FROM BENEFITING FROM THE SALE OF PROPERTY ACQUIRED FOR THE PURPOSES DESCRIBED IN SUBDIVISION (a).

(6) IF AUTHORIZED BY A RESOLUTION OF THE LOCAL TAX COLLECTING UNIT IN WHICH THE REAL OR PERSONAL PROPERTY IS LOCATED, REAL OR PERSONAL PROPERTY OWNED BY A NONPROFIT CHARITABLE INSTITUTION THAT IS OCCUPIED AND USED BY THE NONPROFIT CHARITABLE INSTITUTION'S CHIEF EXECUTIVE OFFICER AS HIS OR HER PRINCIPAL RESIDENCE AS A CONDITION OF HIS OR HER EMPLOYMENT AND THAT IS CONTIGUOUS TO REAL PROPERTY THAT CONTAINS THE NONPROFIT

CHARITABLE INSTITUTION'S PRINCIPAL PLACE OF BUSINESS IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT.

(7) A CHARITABLE HOME OF A FRATERNAL OR SECRET SOCIETY, OR A NONPROFIT CORPORATION WHOSE STOCK IS WHOLLY OWNED BY A RELIGIOUS OR FRATERNAL SOCIETY THAT OWNS AND OPERATES FACILITIES FOR THE AGED AND CHRONICALLY ILL AND IN WHICH THE NET INCOME FROM THE OPERATION OF THE CORPORATION DOES NOT INURE TO THE BENEFIT OF ANY PERSON OTHER THAN THE RESIDENTS, IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT.

(8) REAL AND PERSONAL PROPERTY OWNED AND OCCUPIED BY A NONPROFIT CORPORATION THAT MEETS ALL OF THE FOLLOWING CONDITIONS IS EXEMPT FROM THE COLLECTION OF TAXES UNDER THIS ACT:

(a) THE NONPROFIT CORPORATION IS EXEMPT FROM TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE, 26 USC 501.

(b) THE NONPROFIT CORPORATION MEETS 1 OF THE FOLLOWING CONDITIONS:

(i) IS A SKILLED NURSING FACILITY OR HOME FOR THE AGED, LICENSED UNDER THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.1101 TO 333.25211, OR IS AN ADULT FOSTER CARE FACILITY LICENSED UNDER THE ADULT FOSTER CARE FACILITY LICENSING ACT, 1979 PA 218, MCL 400.701 TO 400.737. AS USED IN THIS SUBPARAGRAPH:

(A) "ADULT FOSTER CARE FACILITY" MEANS THAT TERM AS DEFINED IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING ACT, 1979 PA 218, MCL 400.703.

(B) "HOME FOR THE AGED" MEANS THAT TERM AS DEFINED IN SECTION 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

(C) "SKILLED NURSING FACILITY" MEANS THAT TERM AS DEFINED IN SECTION 20109 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20109.

(ii) PROVIDES HOUSING, REHABILITATION SERVICES, DIAGNOSTIC SERVICES, MEDICAL SERVICES, OR THERAPEUTIC SERVICES TO 1 OR MORE DISABLED PERSONS. AS USED IN THIS SUBPARAGRAPH, "DISABLED PERSON" MEANS THAT TERM AS DEFINED IN SECTION 7d.

(c) THE NONPROFIT CORPORATION MEETS EITHER OF THE FOLLOWING CONDITIONS:

(i) THE REAL AND PERSONAL PROPERTY OF THE NONPROFIT CORPORATION WAS BEING DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

(ii) THE REAL AND PERSONAL PROPERTY OF THE NONPROFIT CORPORATION HAD BEEN TREATED AS EXEMPT FROM THE COLLECTION OF ALL TAXES UNDER THIS ACT ON DECEMBER 31, 2004 AND THERE HAS BEEN NO TRANSFER OF OWNERSHIP OF THAT PROPERTY DURING THE PERIOD OF TIME BEGINNING THE LAST DAY THE PROPERTY WAS TREATED AS EXEMPT UNTIL THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. AS USED IN THIS SUB-SUBPARAGRAPH, "TRANSFER OF OWNERSHIP" MEANS THAT TERM AS DEFINED IN SECTION 27a.

(9) IF REAL OR PERSONAL PROPERTY OWNED AND OCCUPIED BY A NONPROFIT CORPORATION IS NOT ELIGIBLE FOR AN EXEMPTION UNDER SUBSECTION (8), THAT NONPROFIT CORPORATION IS NOT PRECLUDED FROM APPLYING FOR EXEMPTION UNDER SUBSECTION (1).

(10) THE DEPARTMENT OF TREASURY MAY REVIEW THE VALIDITY OF AN EXEMPTIONS UNDER THIS SECTION FOR THE CURRENT CALENDAR YEAR AND FOR THE 2 IMMEDIATELY PRECEDING CALENDAR YEARS. IF THE DEPARTMENT OF TREASURY DETERMINES THAT THE PROPERTY DID NOT QUALIFY FOR THE EXEMPTION FOR ANY OR ALL OF THE ASSESSMENT YEARS IN QUESTION, THE DEPARTMENT SHALL PETITION THE STATE TAX COMMISSION PURSUANT TO SECTION 154 REQUESTING THAT THE PROPERTY OF THE INSTITUTION BE ADDED AS OMITTED PROPERTY.

(11) NOTWITHSTANDING ANY PROVISION OF THIS SECTION THAT AN OWNER OF PROPERTY MAY CLAIM AN EXEMPTION, AN OWNER OF PROPERTY SHALL BE DEEMED TO HAVE CLAIMED AN EXEMPTION UNDER THIS SECTION IF BOTH OF THE FOLLOWING CONDITIONS APPLY:

(a) NO ANNUAL ASSESSMENT NOTICE OR TAX BILL WAS SENT TO THE TAXPAYER INDICATED THE PROPERTY WAS RECEIVING AN ASSESSMENT FOR PROPERTY TAX PURPOSES.

(b) THE OWNER FAILED TO INFORM THE LOCAL ASSESSOR THAT THE PROPERTY WAS INELIGIBLE FOR EXEMPTION UNDER THIS SECTION.

~~(10)~~ **(12) AS USED IN THIS SECTION:**

(a) "CHARITABLE TRUST" MEANS A CHARITABLE TRUST REGISTERED UNDER THE SUPERVISION OF TRUSTEES FOR CHARITABLE PURPOSES ACT, 1961 PA 101, MCL 14.251 TO 14.266.

(B) "CHARITY" MEANS THE OFFERING OF A CHARITABLE GIFT TO AN UNLIMITED OR INDEFINITE NUMBER OF PEOPLE ON A NON-DISCRIMINATORY BASIS **WITHIN THE LIMITS OF AVAILABLE RESOURCES THAT SERVES TO BRING PEOPLE'S MINDS OR HEARTS UNDER THE INFLUENCE OF EDUCATION OR RELIGION; TO RELIEVE PEOPLE'S BODIES FROM DISEASE, SUFFERING, OR CONSTRAINT; TO ASSIST PEOPLE TO ESTABLISH THEMSELVES FOR LIFE; TO ERECT OR MAINTAIN PUBLIC BUILDINGS OR WORKS; OR TO OTHERWISE LESSEN THE BURDENS OF GOVERNMENT. A CHARITABLE GIFT IS ONE PROVIDED WITHOUT DIRECT OR INDIRECT MATERIAL BENEFIT TO THE DONOR OR TO THOSE IN CONTROL OF THE DONOR, OTHER THAN REASONABLE EMPLOYMENT COMPENSATION FOR SERVICES ACTUALLY RENDERED AND ONE WHICH PRIMARILY BENEFITS PERSONS OTHER THAN THOSE IN CONTROL OF THE DONOR. A CHARITABLE GIFT MAY TAKE THE FORM OF:**

(I) PROVIDING VALUABLE SERVICES OR PROPERTY DIRECTLY TO THOSE IN NEED OF THE CHARITABLE INSTITUTION'S ASSISTANCE;

(II) PROVIDING GOODS OR SERVICES TO THOSE IN NEED AT A REDUCED COST, USING RESOURCES WHICH ARE OBTAINED FROM THOSE HAVING THE ABILITY TO PAY OR WHICH ARE DONATED THROUGH BROAD BASED OR MAJOR DONATIVE SUPPORT TO FILL THE FUNDING SHORTFALL.

(III) PROVIDING GOODS OR SERVICES THROUGH DIRECT ACTION OF INDIVIDUALS WHO HAVE A PARTICULAR WILLINGNESS TO PROVIDE DIRECT ASSISTANCE WITHOUT RECEIVING COMPENSATION.

(C 6) "GOVERNMENTAL ENTITY" MEANS 1 OR MORE OF THE FOLLOWING:

(i) THE FEDERAL GOVERNMENT OR AN AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COUNCIL, OR AUTHORITY OF THE FEDERAL GOVERNMENT.

(ii) THIS STATE OR AN AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COUNCIL, OR AUTHORITY OF THIS STATE.

(iii) A COUNTY, CITY, TOWNSHIP, VILLAGE, LOCAL OR INTERMEDIATE SCHOOL DISTRICT, OR MUNICIPAL CORPORATION.

(iv) A PUBLIC EDUCATIONAL INSTITUTION, INCLUDING, BUT NOT LIMITED TO, A LOCAL OR INTERMEDIATE SCHOOL DISTRICT, A PUBLIC SCHOOL ACADEMY, A COMMUNITY COLLEGE OR JUNIOR COLLEGE ESTABLISHED PURSUANT TO SECTION 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF 1963, OR A STATE 4-YEAR INSTITUTION OF HIGHER EDUCATION LOCATED IN THIS STATE.

(v) ANY OTHER AUTHORITY OR PUBLIC BODY CREATED UNDER STATE LAW.

(D 6) "PUBLIC SCHOOL ACADEMY" MEANS A PUBLIC SCHOOL ACADEMY ORGANIZED UNDER THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1 TO 380.1852.