



# House of Representatives

General Assembly

**File No. 177**

February Session, 2022

Substitute House Bill No. 5168

*House of Representatives, March 29, 2022*

The Committee on Planning and Development reported through REP. MCCARTHY VAHEY of the 133rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING PROPERTY TAX EXEMPTIONS FOR PROPERTY USED FOR CHARITABLE PURPOSES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (7) of section 12-81 of the 2022 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2022, and applicable to assessment years*  
4 *commencing on or after October 1, 2022*):

5 (7) (A) Subject to the provisions of sections 12-87 and 12-88, the real  
6 property of, or held in trust for, a corporation organized exclusively for  
7 scientific, educational, literary, historical or charitable purposes or for  
8 two or more such purposes and used exclusively for carrying out one or  
9 more of such purposes or for the purpose of preserving open space land,  
10 as defined in section 12-107b, for any of the uses specified in said section,  
11 that is owned by any such corporation, and the personal property of, or  
12 held in trust for, any such corporation, provided (i) any officer, member  
13 or employee thereof does not receive or at any future time shall not

14 receive any pecuniary profit from the operations thereof, except  
15 reasonable compensation for services in effecting one or more of such  
16 purposes or as proper beneficiary of its strictly charitable purposes, and  
17 (ii) in 1965, and quadrennially thereafter, a statement shall be filed on or  
18 before [the first day of] November first with the assessor or board of  
19 assessors of any town, consolidated town and city or consolidated town  
20 and borough, in which any of its property claimed to be exempt is  
21 situated. Such statement shall be filed on [a form provided by such  
22 assessor or board of assessors] the form developed and provided  
23 pursuant to subsection (b) of section 12-89, as amended by this act. Such  
24 form shall be posted on the Internet web site of such assessor or board  
25 of assessors, as applicable. The real property shall be eligible for the  
26 exemption regardless of whether it is used by another corporation  
27 organized exclusively for scientific, educational, literary, historical or  
28 charitable purposes or for two or more such purposes;

29 (B) On and after [July 1, 1967] October 1, 2022, housing subsidized, in  
30 whole or in part, by federal, state or local government and housing for  
31 persons or families of low and moderate income shall not constitute a  
32 charitable purpose under this section. As used in this subdivision,  
33 "housing" shall not include real property used for [temporary] housing  
34 belonging to, or held in trust for, any corporation organized exclusively  
35 for charitable purposes and exempt from taxation for federal income tax  
36 purposes, the primary use of which property is one or more of the  
37 following: (i) An orphanage; (ii) a drug or alcohol treatment or  
38 rehabilitation facility; (iii) housing for persons who are homeless,  
39 persons with a mental health disorder, persons with intellectual or  
40 physical disability or victims of domestic violence; (iv) housing for ex-  
41 offenders or for individuals participating in a program sponsored by the  
42 state Department of Correction or Judicial Branch; [and] or (v) short-  
43 term housing operated by a charitable organization where the average  
44 length of stay is less than six months. The operation of such housing,  
45 including the receipt of any rental payments, by such charitable  
46 organization shall be deemed to be an exclusively charitable purpose.  
47 For the purposes of this subdivision, payments made by federal, state or  
48 local government for the treatment, support or care of individuals

49 housed in the real property described in subparagraphs (B)(i) to (B)(v),  
50 inclusive, of this subdivision shall not constitute housing subsidies;

51 Sec. 2. Section 12-89 of the general statutes is repealed and the  
52 following is substituted in lieu thereof (*Effective July 1, 2022, and*  
53 *applicable to assessment years commencing on or after October 1, 2022*):

54 (a) The assessor or board of assessors of each town, consolidated  
55 town and city or consolidated town and borough shall inspect the  
56 statements filed with it [and required by] pursuant to sections 12-81, as  
57 amended by this act, and 12-87 from scientific, educational, literary,  
58 historical, charitable, agricultural and cemetery organizations, and shall  
59 determine what part, if any, of the property claimed to be exempt by the  
60 organization [shall be] is in fact exempt. [and] The assessor or board of  
61 assessors shall place a valuation upon [all] any such property [, if any,  
62 as is] found to be taxable. [, provided any] Any property acquired by  
63 any tax-exempt organization after [the first day of] October first shall  
64 first become exempt on the assessment date next succeeding the date of  
65 acquisition. For assessment years commencing on or after October 1,  
66 2022, if the assessor or board of assessors determines that property  
67 claimed to be exempt is taxable, the assessor or board of assessors shall  
68 state upon its records the rationale for such determination. Any  
69 organization filing a tax-exempt statement, aggrieved at the action of  
70 the assessor or board of assessors, may appeal, within the time  
71 prescribed by law for such appeals, to the board of assessment appeals.  
72 Any such organization claiming to be aggrieved by the action of the  
73 board of assessment appeals may, within two months from the time of  
74 such action, make application in the nature of an appeal therefrom to  
75 the superior court for the judicial district in which such property is  
76 situated.

77 (b) Not later than September 1, 2022, the Office of Policy and  
78 Management shall, in consultation with the Connecticut Community  
79 Nonprofit Alliance and the Connecticut Association of Assessing  
80 Officers, develop and provide to assessors and boards of assessors a  
81 form for use for assessment years commencing on or after October 1,

82 2022, on which (1) statements shall be filed pursuant to subparagraph  
83 (A) of subdivision (7) of section 12-81, as amended by this act, and (2)  
84 assessors and boards of assessors shall determine whether a property is  
85 exempt from taxation pursuant to subsection (a) of this section. Such  
86 form shall include, but not be limited to, instruction concerning how  
87 such determinations shall be made.

88 Sec. 3. Section 12-119 of the general statutes is repealed and the  
89 following is substituted in lieu thereof (*Effective October 1, 2022, and*  
90 *applicable to assessment years commencing on or after October 1, 2022*):

91 (a) When it is claimed that a tax has been laid on property not taxable  
92 in the town or city in whose tax list such property was set, or that a tax  
93 laid on property was computed on an assessment which, under all the  
94 circumstances, was manifestly excessive and could not have been  
95 arrived at except by disregarding the provisions of the statutes for  
96 determining the valuation of such property, the owner thereof or any  
97 lessee thereof whose lease has been recorded as provided in section 47-  
98 19 and who is bound under the terms of his lease to pay real property  
99 taxes, prior to the payment of such tax, may, in addition to the other  
100 remedies provided by law, make application for relief to the superior  
101 court for the judicial district in which such town or city is situated. Such  
102 application may be made within one year from the date as of which the  
103 property was last evaluated for purposes of taxation and shall be served  
104 and returned in the same manner as is required in the case of a summons  
105 in a civil action, and the pendency of such application shall not suspend  
106 action upon the tax against the applicant. In all such actions, the  
107 Superior Court shall have power to grant such relief upon such terms  
108 and in such manner and form as to justice and equity appertains, and  
109 costs may be taxed at the discretion of the court. If such assessment is  
110 reduced by said court, the applicant shall be reimbursed by the town or  
111 city for any overpayment of taxes in accordance with the judgment of  
112 said court.

113 (b) When it is claimed that an assessor or board of assessors denied a  
114 tax exemption filed pursuant to subdivision (7) of section 12-81, as

115 amended by this act, or section 12-87, for reasons that could not have  
 116 been arrived at except by disregarding the provisions of the statutes for  
 117 determining the exemption of such property from taxation, and a tax  
 118 was laid on the property that was the subject of such filing, the owner  
 119 thereof may, in addition to the other remedies provided by law, make  
 120 application for relief to the superior court for the judicial district for the  
 121 town or city in which such property is situated. Such application may  
 122 be made not later than one year after the date as of which the property  
 123 was last denied exemption and shall be served and returned in the same  
 124 manner as is required in the case of a summons in civil action, and the  
 125 pendency of such application shall not suspend action upon the tax  
 126 against the applicant. In all such actions, if the court determines a tax  
 127 exemption was denied for reasons that could not have been arrived at  
 128 except by disregarding the provisions of the statutes for determining the  
 129 exemption of such property from taxation, and a tax was laid on such  
 130 property, the court shall have power to grant such relief upon such  
 131 terms and in such manner and form as to justice and equity appertains,  
 132 and costs and attorney's fees may be taxed at the discretion of the court.  
 133 If such tax exemption is granted by said court, the applicant shall be  
 134 reimbursed by the town or city for any overpayment of taxes in  
 135 accordance with the judgment of said court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022</i>	12-81(7)
Sec. 2	<i>July 1, 2022, and applicable to assessment years commencing on or after October 1, 2022</i>	12-89
Sec. 3	<i>October 1, 2022, and applicable to assessment years commencing on or after October 1, 2022</i>	12-119

**Statement of Legislative Commissioners:**

In Section 1(7)(A), "if applicable" was changed to "as applicable" for clarity, and in Section 2, "assessor or" and "assessors and" were inserted before "boards of assessors" throughout for consistency.

**PD**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	Grand List Reduction	None	Potential

**Explanation**

The bill expands the types of housing owned by charitable organizations that are exempt from property taxes. This results in a grand list reduction in municipalities where these properties are located. A grand list reduction results in a revenue loss, given a constant mill rate. In FY 20, the cumulative statewide revenue loss was estimated to be \$1.9 million.<sup>1</sup>

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to changes in municipal mill rates and grand lists.

<sup>1</sup> Estimate derived from a 2019 survey of 775 group home properties around the state.

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**OLR Bill Analysis****sHB 5168*****AN ACT CONCERNING PROPERTY TAX EXEMPTIONS FOR PROPERTY USED FOR CHARITABLE PURPOSES.*****SUMMARY**

This bill:

1. expands the type of housing owned by federally tax-exempt, charitable organizations that is exempt from state property tax (§ 1);
2. specifies that government payments for the treatment, support, or care of individuals housed in a property are not government housing subsidies that disqualify a property for a tax exemption (§ 1);
3. requires assessors to record their reasons for denying property tax exemptions for certain nonprofit organizations (§ 2);
4. standardizes the form that organizations must file every four years to claim a property tax exemption (i.e., tax-exempt filings) and requires assessors to post the form on their website (§§ 1 & 2); and
5. specifies that certain denials of tax exemptions for charitable properties can be appealed directly to the Superior Court, like other eligible appeals, and authorizes the court to award attorney's fees, in addition to other relief, in these actions (§ 3).

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2022, and applicable to assessment years starting on and after that date, except the provisions requiring a



standard exemption form and assessors to record their rationale for exemption denials are effective July 1, 2022.

## **§ 1 — TAX-EXEMPT CHARITABLE HOUSING**

### ***Temporary Housing***

Current law exempts from property tax certain housing owned by, or held in trust for, organizations that are exempt from federal income taxes and organized exclusively for charitable purposes. The exemption is for structures used mainly for one or more of these temporary housing purposes:

1. an orphanage;
2. a drug or alcohol treatment or rehabilitation facility;
3. to house people who are homeless, have a mental health disorder or an intellectual or physical disability, or are domestic violence victims;
4. to house ex-offenders or participants in judicial branch- or Department of Corrections- sponsored programs; or
5. as short-term housing where the average stay is less than six months.

The bill eliminates the provision restricting the exemption to just temporary housing for these purposes, expanding the exemption to the first four types of housing above regardless of how long people stay in them.

### ***Subsidized Housing***

Under existing law, housing that is partially or entirely funded by government subsidies is not a charitable purpose and is ineligible for the property tax exemption. The bill specifies government payments for the treatment, support, or care of individuals housed in a property described above (e.g., a drug treatment facility or housing for individuals with a physical disability) are not subsidies. So, these payments do not, by themselves, make a property ineligible for the

property tax exemption under the bill.

### **§§ 1 & 2 — EXEMPTION FILINGS AND DENIALS**

Existing law requires boards of assessors (i.e., assessors) to determine what portion of a property, if any, owned by scientific, educational, literary, historical, charitable, agricultural, and cemetery organizations (i.e., charitable property) is exempt and assess any property they determine is taxable. They must do so by inspecting the tax-exempt filing these organizations must file to claim their property tax exemptions. If an assessor determines that property claimed to be exempt is taxable, the bill requires them to state their rationale in the records.

The bill also shifts responsibility for providing the tax-exempt filing form from each assessor to the Office of Policy and Management (OPM). Under the bill, OPM must develop the form by September 1, 2022, for use beginning in the next assessment year (i.e., October 1, 2022), in consultation with the Connecticut Community Nonprofit Alliance and Connecticut Association of Assessing Officers. The form must have instructions on how assessors determine whether a property is tax exempt and assessors must post the form on their websites.

### **§ 3 — ASSESSORS' DENIAL OF EXEMPTIONS**

The bill specifies that a charitable property's owner can appeal a tax exemption denial directly to Superior Court, without first appealing to the board of assessment appeals, on the basis that the assessor's reasons for denying the exemption conflict with exemption eligibility laws.

Existing law allows taxpayers to bring certain property tax claims directly to Superior Court, including claims that taxes were wrongfully laid on property that is not taxable. As with these other claims, the bill authorizes the court to award relief in the form and manner justice and equity requires, including court costs at its discretion. However, for charitable property exemption denials, the court can also award attorney's fees under the bill.

Under both existing law and the bill:

1. appeals must be filed within one year from the town's last denial or determination,
2. service and returns must be done in the same manner as civil action summons,
3. appeals do not suspend any town action to collect the tax, and
4. towns must refund the taxpayer for any overpayments the court finds.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable

Yea 26 Nay 0 (03/11/2022)