



191502

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/14/2009	.	
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The Committee on Community Affairs (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 196.1962, Florida Statutes, is created
to read:

196.1962 Exemption of real property dedicated in perpetuity
for conservation purposes.-

(1) Pursuant to s. 3(f), Art. VII of the State
Constitution, real property that is dedicated in perpetuity for
the conservation purposes specified in this section is exempt



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12 from ad valorem taxation.

13 (a) Real property qualifying for the exemption must be
14 perpetually encumbered by a valid and enforceable conservation
15 easement or other conservation protection agreement that:

16 1. Requires the property to serve a conservation purpose,
17 as defined in 26 U.S.C. s. 170(h)(4)(A), which serves as the
18 basis of a qualified conservation contribution under 26 U.S.C.
19 s. 170(h); or

20 2.a. Requires the perpetual retention of the substantial
21 natural value of the property, including, but not limited to,
22 woodlands, wetlands, water courses, ponds, streams, and natural
23 open spaces or requires the restoration of the natural resources
24 of the land;

25 b. Requires the conservation of native wildlife habitat,
26 water quality enhancement, or water quantity recharge;

27 c. Prohibits subsurface excavation, billboards, trash,
28 unlawful pollutants, new paved roads, or residential or
29 commercial structures on the property and requires the property
30 to be kept in essentially its natural state;

31 d. Includes baseline documentation as to the natural values
32 to be protected on the property and may include a management
33 plan that details the management of the property so as to
34 effectuate the conservation of natural resources on the
35 property;

36 e. Is enforceable by a federal or state agency, county,
37 municipality, water management district, or nonprofit entity
38 that is qualified to enforce the provisions of the easement or
39 other conservation protection agreement;

40 f. Allows for periodic review by any enforcing entity of



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41 the provisions of the easement or conservation protection
42 agreement;

43 g. Provides for the perpetual enforcement of the provisions
44 of the easement or conservation protection agreement against any
45 present or future owner of the property; and

46 h. Provides that the conservation easement or other
47 conservation protection agreement is perpetual and nonrevocable.

48 (b) For purposes of this section, the term "conservation
49 protection agreement" means a deed restriction, land use
50 agreement, or covenant running with the land which dedicates the
51 property for conservation purposes.

52 (c) If property receiving the exemption under this section
53 contains improvements, the portion of the property consisting of
54 improvements and curtilage must be assessed separately pursuant
55 to the provisions of chapter 193.

56 (2) Real property that is exempt from ad valorem taxation
57 pursuant to this section and is used for agricultural or
58 silvicultural purposes must be maintained pursuant to the most
59 recent best-management practices established by the Division of
60 Forestry of the Department of Agriculture and Consumer Services
61 or other entity designated by the department.

62 (3) An owner of real property that is exempt from ad
63 valorem taxation pursuant to this section shall abide by the
64 requirements of the Florida Marketable Record Title Act, chapter
65 712, or any other similar law or rule to preserve the effect of
66 the qualifying conservation easement or other conservation
67 protection agreement in perpetuity.

68 (4) (a) Notwithstanding subsection (1), real property that
69 is perpetually encumbered by a conservation easement or other



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70 conservation protection agreement and that is less than 40
71 contiguous acres is not entitled to the exemption under this
72 section unless the property:

73 1. Contains a natural sinkhole or a natural spring that
74 serves a significant water recharge or water production
75 function;

76 2. Contains a unique geological feature;

77 3. Provides habitat for a species that is listed as one of
78 Florida's endangered, threatened, or species of special concern
79 or listed pursuant to the federal Endangered Species Act or a
80 successor law;

81 4. Includes a shoreline adjacent to Outstanding Florida
82 Waters, an Estuary of National Significance, or an American
83 Heritage River; or

84 5. Is adjacent to public lands that are managed for
85 conservation purposes or other private lands that are
86 perpetually encumbered by a conservation easement or other
87 conservation protection agreement, and is at least 5 contiguous
88 acres in size.

89 (b) In order to qualify for the exemption under this
90 section, real property that is less than 40 contiguous acres
91 must have a management plan that is approved by the entity
92 responsible for enforcing the easement or other conservation
93 protection agreement.

94 (5) The Department of Revenue shall adopt rules providing
95 for the administration of this section.

96 (6) The Department of Environmental Protection shall adopt
97 by rule a list of nonprofit entities that are qualified to
98 enforce the provisions of an easement or other conservation



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99 protection agreement.

100 Section 2. Section 193.501, Florida Statutes, is amended to
101 read:

102 193.501 Assessment of lands used for conservation purposes
103 ~~subject to a conservation easement, environmentally endangered~~
104 ~~lands, or lands used for outdoor recreational or park purposes~~
105 ~~when land development rights have been conveyed or conservation~~
106 ~~restrictions have been covenanted.-~~

107 (1) As used in this section and pursuant to s. 4(b), Art.
108 VII of the State Constitution, the term:

109 (a) "Lands used for conservation purposes" means:

110 1. Lands designated as environmentally endangered lands by
111 a formal resolution of the governing body of the local
112 government within whose jurisdictional boundaries the land is
113 located;

114 2. Land designated as conservation land in a local
115 comprehensive plan adopted by the appropriate local governing
116 body pursuant to chapter 163;

117 3. Lands used for outdoor recreational or park purposes if
118 land development rights have been conveyed; or

119 4. Lands used for the conservation specified in s. 196.1962
120 when a conservation easement or a conservation protection
121 agreement has been executed pursuant to s. 704.06.

122 (b) "Board" means the governing board of any municipality
123 county, or other public agency of the state, or the Board of
124 Trustees of the Internal Improvement Trust Fund.

125 (c) "Conservation easement" has the same meaning as
126 provided in s. 704.06(1).

127 (d) "Covenant" means a covenant running with the land.



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128 (e) "Deferred tax liability" means an amount equal to the
129 difference between the total amount of taxes that would have
130 been due in March in each of the previous years in which the
131 conveyance or covenant was in effect if the property had been
132 assessed under the provisions of s. 193.011 and the total amount
133 of taxes actually paid in those years if the property was
134 assessed as provided in this section, plus interest on that
135 difference. The interest accrues at the rate of 1 percent per
136 month beginning on the 21st day of the month following the month
137 in which the full amount of tax based on an assessment pursuant
138 to s. 193.011 would have been due.

139 (f) "Development right" means the right of the owner of the
140 fee interest in the land to change the use of the land.

141 (g) "Outdoor recreational or park purposes" includes, but
142 is not limited to, boating, golfing, camping, swimming,
143 horseback riding, and archaeological, scenic, or scientific
144 sites. The term applies only to activities on land that is open
145 to the general public.

146 (h) "Qualified as environmentally endangered" means:

147 1. Land that has unique ecological characteristics, rare or
148 limited combinations of geological formations, or features of a
149 rare or limited nature constituting habitat suitable for fish,
150 plants, or wildlife, and which, if subject to a development
151 moratorium or one or more conservation easements or development
152 restrictions appropriate to retaining such land or water areas
153 predominantly in their natural state, would be consistent with
154 the conservation, recreation and open space and, if applicable,
155 coastal protection elements of the comprehensive plan adopted by
156 formal action of the local governing body pursuant to s.



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157 163.3161, the Local Government Comprehensive Planning and Land
158 Development Regulation Act; or

159 2. Surface waters and wetlands as determined by the
160 methodology ratified by s. 373.4211.

161 (2)(1) The owner or owners in fee of any land used for
162 conservation subject to a conservation easement as described in
163 s. 704.06(1); land qualified as environmentally endangered
164 pursuant to paragraph (6)(i) and so designated by formal
165 resolution of the governing board of the municipality or county
166 within which such land is located; land designated as
167 conservation land in a comprehensive plan adopted by the
168 appropriate municipal or county governing body; or any land
169 which is utilized for outdoor recreational or park purposes may,
170 by appropriate instrument, for a term of at least not less than
171 10 years:

172 (a) Convey the development right of such land to the
173 governing board of any public agency in this state within which
174 the land is located, or to the Board of Trustees of the Internal
175 Improvement Trust Fund, or to a charitable corporation or trust
176 as described in s. 704.06(4) ~~s. 704.06(3)~~; or

177 (b) Covenant with the governing board of any public agency
178 in this state within which the land is located, or with the
179 Board of Trustees of the Internal Improvement Trust Fund, or
180 with a charitable corporation or trust as described in s.
181 704.06(4) ~~s. 704.06(3)~~, that such land be subject to one or more
182 of the prohibitions or limitations ~~conservation restrictions~~
183 provided in s. 704.06(1) or that ~~not be used by the owner~~ may
184 not use the land for any purpose other than outdoor recreational
185 or park purposes if development rights are conveyed. If land is



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186 covenanted and used for an outdoor recreational purpose, the
187 normal use and maintenance of the land for that purpose,
188 consistent with the covenant, shall not be restricted.

189 (3)(2) The governing board of any public agency in this
190 state, or the Board of Trustees of the Internal Improvement
191 Trust Fund, or a charitable corporation or trust as described in
192 s. 704.06(4) ~~s. 704.06(3)~~, is authorized and empowered in its
193 discretion to accept any and all instruments that convey
194 ~~conveying~~ the development right of any such land or establish
195 ~~establishing~~ a covenant for a term of at least 10 years.
196 ~~pursuant to subsection (1), and~~ If accepted by the board or
197 charitable corporation or trust, the instrument shall be
198 promptly recorded in the official public records of the county
199 in which the land is located ~~filed with the appropriate officer~~
200 ~~for recording in the same manner as any other instrument~~
201 ~~affecting the title to real property.~~

202 (4)(3) When, ~~pursuant to subsections (1) and (2),~~ the
203 development right in real property has been conveyed to the
204 governing board of any public agency of this state, to the Board
205 of Trustees of the Internal Improvement Trust Fund, or to a
206 charitable corporation or trust as described in s. 704.06(3) ~~s.~~
207 ~~704.06(2)~~, or a covenant has been executed and accepted by the
208 board or charitable corporation or trust, the lands which are
209 the subject of such conveyance or covenant shall be thereafter
210 assessed as provided herein:

211 (a) If the covenant or conveyance extends for a period of
212 at least ~~not less than~~ 10 years from January 1 in the year such
213 assessment is made, the property appraiser, ~~in valuing such land~~
214 ~~for tax purposes,~~ shall assess the land solely on the basis of



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215 ~~character or use consider no factors other than those relative~~
216 ~~to its value for the present use, as restricted by any~~
217 ~~conveyance or covenant under this section.~~

218 (b) If the covenant or conveyance extends for a period less
219 than 10 years, the land shall be assessed under the provisions
220 of s. 193.011, recognizing the nature and length thereof of any
221 restriction placed on the use of the land under the provisions
222 of subsection (1).

223 ~~(5)~~~~(4)~~ After conveying ~~making a conveyance of~~ the
224 development right or executing a covenant or conservation
225 protection agreement pursuant to this section, or conveying a
226 conservation easement pursuant to this section and s. 704.06,
227 the owner of the land shall not use the land in any manner not
228 consistent with the development right voluntarily conveyed, or
229 with the restrictions voluntarily imposed, or with the terms of
230 the conservation easement or conservation protection agreement,
231 or shall not change the use of the land from outdoor
232 recreational or park purposes during the term of such conveyance
233 or covenant without first obtaining a written instrument from
234 the board or charitable corporation or trust, which must
235 reconvey to the owner ~~instrument reconveys~~ all or part of the
236 development right ~~to the owner~~ or which must release ~~releases~~
237 the owner from the terms of the covenant. The written instrument
238 must be recorded in the official records of the county in which
239 the property subject to the reconveyance or release is located
240 ~~and which instrument must be promptly recorded in the same~~
241 ~~manner as any other instrument affecting the title to real~~
242 ~~property.~~ Upon obtaining approval for reconveyance or release
243 from the board or the charitable organization or trust, the



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244 reconveyance or release shall be made to the owner upon payment
245 of the deferred tax liability. Any payment of the deferred tax
246 liability shall be payable to the county tax collector within 90
247 days of the date of approval for reconveyance or release ~~by the~~
248 ~~board or charitable corporation or trust of the reconveyance or~~
249 ~~release~~. The collector shall distribute the payment to each
250 governmental unit in the proportion that its millage bears to
251 the total millage levied on the parcel for the years in which
252 such conveyance or covenant was in effect.

253 (6) ~~(5)~~ The governing board of any public agency in this
254 state or the Board of Trustees of the Internal Improvement Trust
255 Fund or a charitable corporation or trust which holds title to a
256 development right pursuant to this section may not convey that
257 development right to anyone other than the governing board of
258 another public agency in this state or a charitable corporation
259 or trust, as described in s. 704.06(4) ~~s. 704.06(3)~~, or the
260 record owner of the fee interest in the land to which the
261 development right attaches. The conveyance from the governing
262 board of a public agency or the Board of Trustees of the
263 Internal Improvement Trust Fund to the owner of the fee shall be
264 made only after a determination by the board that such
265 conveyance would not adversely affect the interest of the
266 public. Section 125.35 does not apply to such sales, but any
267 public agency accepting any instrument conveying a development
268 right pursuant to this section shall forthwith adopt appropriate
269 regulations and procedures governing the disposition of same.
270 These regulations and procedures must provide in part that the
271 board may not convey a development right to the owner of the fee
272 without first holding a public hearing and unless notice of the



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273 proposed conveyance and the time and place at which the public
274 hearing is to be held is published once a week for at least 2
275 weeks in some newspaper of general circulation in the county in
276 which the property is located before ~~involved prior to~~ the
277 hearing.

278 ~~(6) The following terms whenever used as referred to in~~
279 ~~this section have the following meanings unless a different~~
280 ~~meaning is clearly indicated by the context:~~

281 ~~(a) "Board" is the governing board of any city, county, or~~
282 ~~other public agency of the state or the Board of Trustees of the~~
283 ~~Internal Improvement Trust Fund.~~

284 ~~(b) "Conservation restriction" means a limitation on a~~
285 ~~right to the use of land for purposes of conserving or~~
286 ~~preserving land or water areas predominantly in their natural,~~
287 ~~scenic, open, agricultural, or wooded condition. The limitation~~
288 ~~on rights to the use of land may involve or pertain to any of~~
289 ~~the activities enumerated in s. 704.06(1).~~

290 ~~(c) "Conservation easement" means that property right~~
291 ~~described in s. 704.06.~~

292 ~~(d) "Covenant" is a covenant running with the land.~~

293 ~~(e) "Deferred tax liability" means an amount equal to the~~
294 ~~difference between the total amount of taxes that would have~~
295 ~~been due in March in each of the previous years in which the~~
296 ~~conveyance or covenant was in effect if the property had been~~
297 ~~assessed under the provisions of s. 193.011 and the total amount~~
298 ~~of taxes actually paid in those years when the property was~~
299 ~~assessed under the provisions of this section, plus interest on~~
300 ~~that difference computed as provided in s. 212.12(3).~~

301 ~~(f) "Development right" is the right of the owner of the~~



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302 ~~fee interest in the land to change the use of the land.~~

303 ~~(g) "Outdoor recreational or park purposes" includes, but~~
304 ~~is not necessarily limited to, boating, golfing, camping,~~
305 ~~swimming, horseback riding, and archaeological, scenic, or~~
306 ~~scientific sites and applies only to land which is open to the~~
307 ~~general public.~~

308 ~~(h) "Present use" is the manner in which the land is~~
309 ~~utilized on January 1 of the year in which the assessment is~~
310 ~~made.~~

311 ~~(i) "Qualified as environmentally endangered" means land~~
312 ~~that has unique ecological characteristics, rare or limited~~
313 ~~combinations of geological formations, or features of a rare or~~
314 ~~limited nature constituting habitat suitable for fish, plants,~~
315 ~~or wildlife, and which, if subject to a development moratorium~~
316 ~~or one or more conservation easements or development~~
317 ~~restrictions appropriate to retaining such land or water areas~~
318 ~~predominantly in their natural state, would be consistent with~~
319 ~~the conservation, recreation and open space, and, if applicable,~~
320 ~~coastal protection elements of the comprehensive plan adopted by~~
321 ~~formal action of the local governing body pursuant to s.~~
322 ~~163.3161, the Local Government Comprehensive Planning and Land~~
323 ~~Development Regulation Act; or surface waters and wetlands, as~~
324 ~~determined by the methodology ratified in s. 373.4211.~~

325 (7) (a) The property appraiser shall report to the
326 department showing the just value and the classified use value
327 of lands used for property that is subject to a conservation
328 purposes pursuant to this section ~~easement under s. 704.06,~~
329 ~~property assessed as environmentally endangered land pursuant to~~
330 ~~this section, and property assessed as outdoor recreational or~~



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331 ~~park land.~~

332 (b) The tax collector shall annually report to the
333 department the amount of deferred tax liability collected
334 pursuant to this section.

335 Section 3. Subsection (1) of section 195.073, Florida
336 Statutes, is amended to read:

337 195.073 Classification of property.—All items required by
338 law to be on the assessment rolls must receive a classification
339 based upon the use of the property. The department shall
340 promulgate uniform definitions for all classifications. The
341 department may designate other subclassifications of property.
342 No assessment roll may be approved by the department which does
343 not show proper classifications.

344 (1) Real property must be classified according to the
345 assessment basis of the land into the following classes:

346 (a) Residential, subclassified into categories, one
347 category for homestead property and one for nonhomestead
348 property:

- 349 1. Single family.
- 350 2. Mobile homes.
- 351 3. Multifamily.
- 352 4. Condominiums.
- 353 5. Cooperatives.
- 354 6. Retirement homes.

355 (b) Commercial and industrial.

356 (c) Agricultural.

357 (d) Nonagricultural acreage.

358 (e) High-water recharge.

359 (f) Historic property used for commercial or certain



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360 nonprofit purposes.

361 (g) Exempt, wholly or partially.

362 (h) Centrally assessed.

363 (i) Leasehold interests.

364 (j) Time-share property.

365 (k) Land used for conservation purposes under s. 193.501.

366 (l)~~(k)~~ Other.

367 Section 4. Paragraph (b) of subsection (1) and subsections
368 (6) and (9) of section 196.011, Florida Statutes, are amended to
369 read:

370 196.011 Annual application required for exemption.—

371 (1)

372 (b) The form to apply for an exemption under s. 196.031, s.

373 196.081, s. 196.091, s. 196.101, 196.1962, or s. 196.202 ~~s.~~

374 ~~196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202~~ must

375 include a space for the applicant to list the social security
376 number of the applicant and of the applicant's spouse, if any.

377 If an applicant files a timely and otherwise complete
378 application, and omits the required social security numbers, the
379 application is incomplete. In that event, the property appraiser
380 shall contact the applicant, who may refile a complete
381 application by April 1. Failure to file a complete application
382 by that date constitutes a waiver of the exemption privilege for
383 that year, except as provided in subsection (7) or subsection
384 (8).

385 (6) (a) Once an original application for tax exemption has
386 been granted, in each succeeding year on or before February 1,
387 the property appraiser shall mail a renewal application to the
388 applicant, and the property appraiser shall accept from each



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389 such applicant a renewal application on a form ~~to be~~ prescribed
390 by the Department of Revenue. Such renewal application shall be
391 accepted as evidence of exemption by the property appraiser
392 unless he or she denies the application. Upon denial, the
393 property appraiser shall serve, on or before July 1 of each
394 year, a notice setting forth the grounds for denial on the
395 applicant by first-class mail. Any applicant objecting to such
396 denial may file a petition as provided for in s. 194.011(3).

397 (b) Once an original application for the tax exemption has
398 been granted under s. 196.1962, in each succeeding year on or
399 before February 1, the property appraiser shall mail a renewal
400 application to the applicant on a form prescribed by the
401 Department of Revenue. The applicant must to certify on the form
402 that the use of the property has not changed. The form shall
403 include a statement that the exemption granted under s. 196.1962
404 will not be renewed unless application is returned to the
405 property appraiser.

406 (9) (a) A county may, at the request of the property
407 appraiser and by a majority vote of its governing body, waive
408 the requirement that an annual application or statement be made
409 for exemption of property within the county after an initial
410 application is made and the exemption granted. The waiver under
411 this subsection of the annual application or statement
412 requirement applies to all exemptions under this chapter except
413 the exemption under s. 196.1995. Notwithstanding such waiver,
414 refiling of an application or statement shall be required when
415 any property granted an exemption is sold or otherwise disposed
416 of, when the ownership changes in any manner, when the applicant
417 for homestead exemption ceases to use the property as his or her



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418 homestead, or when the status of the owner changes so as to
419 change the exempt status of the property. In its deliberations
420 on whether to waive the annual application or statement
421 requirement, the governing body shall consider the possibility
422 of fraudulent exemption claims which may occur due to the waiver
423 of the annual application requirement. ~~It is~~ The ~~duty of the~~
424 owner of any property granted an exemption who is not required
425 to file an annual application or statement has a duty to notify
426 the property appraiser promptly whenever the use of the property
427 or the status or condition of the owner changes so as to change
428 the exempt status of the property. If any property owner fails
429 to so notify the property appraiser and the property appraiser
430 determines that for any year within the prior 10 years the owner
431 was not entitled to receive such exemption, the owner of the
432 property is subject to the taxes exempted as a result of such
433 failure plus 15 percent interest per annum and a penalty of 50
434 percent of the taxes exempted. Except for homestead exemptions
435 controlled by s. 196.161, ~~it is the duty of~~ the property
436 appraiser making such determination has a duty to record in the
437 public records of the county a notice of tax lien against any
438 property owned by that person or entity in the county, and such
439 property must be identified in the notice of tax lien. Such
440 property is subject to the payment of all taxes and penalties.
441 Such lien when filed shall attach to any property, identified in
442 the notice of tax lien, owned by the person who illegally or
443 improperly received the exemption. Should such person no longer
444 own property in that county, but own property in some other
445 county or counties in the state, ~~it shall be the duty of~~ the
446 property appraiser has a duty to record a notice of tax lien in



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447 such other county or counties, identifying the property owned by
448 such person or entity in such county or counties, and it shall
449 become a lien against such property in such county or counties.

450 (b) The owner of any property granted an exemption under s.
451 196.1962 has a duty to notify the property appraiser promptly
452 whenever the use of the property changes. If the property owner
453 fails to so notify the property appraiser and the property
454 appraiser determines that for any year within the preceding 10
455 years the owner was not entitled to receive the exemption, the
456 owner of the property is subject to taxes exempted as a result
457 of the failure plus 18 percent interest per annum and a penalty
458 of 100 percent of the taxes exempted. The provisions for tax
459 liens in paragraph (a) apply to property granted an exemption
460 under s. 196.1962.

461 (c) ~~(b)~~ A county may, at the request of the property
462 appraiser and by a majority vote of its governing body, waive
463 the requirement that an annual application be made for the
464 veteran's disability discount granted pursuant to s. 6(g), Art.
465 VII of the State Constitution after an initial application is
466 made and the discount granted. ~~It is the duty of~~ The disabled
467 veteran receiving a discount for which annual application has
468 been waived has a duty to notify the property appraiser promptly
469 whenever the use of the property or the percentage of disability
470 to which the veteran is entitled changes. If a disabled veteran
471 fails to notify the property appraiser and the property
472 appraiser determines that for any year within the prior 10 years
473 the veteran was not entitled to receive all or a portion of such
474 discount, the penalties and processes in paragraph (a) relating
475 to the failure to notify the property appraiser of ineligibility



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476 for an exemption shall apply.

477 (d)~~(e)~~ For any exemption under s. 196.101(2), the statement
478 concerning gross income must be filed with the property
479 appraiser not later than March 1 of every year.

480 (e)~~(d)~~ If an exemption for which the annual application is
481 waived pursuant to this subsection will be denied by the
482 property appraiser in the absence of the refiling of the
483 application, notification of an intent to deny the exemption
484 shall be mailed to the owner of the property prior to February
485 1. If the property appraiser fails to timely mail such notice,
486 the application deadline for such property owner pursuant to
487 subsection (1) shall be extended to 28 days after the date on
488 which the property appraiser mails such notice.

489 Section 5. Section 704.06, Florida Statutes, is amended to
490 read:

491 704.06 Conservation easements and conservation protection
492 agreements; creation; acquisition; enforcement.-

493 (1) As used in this section, "conservation easement" means
494 a transferrable right or interest in real property which may be
495 perpetual or limited to a certain term, and which is appropriate
496 to retaining land or water areas predominantly in their natural,
497 scenic, open, agricultural, or wooded condition; retaining such
498 areas as suitable habitat for fish, plants, or wildlife;
499 retaining the structural integrity or physical appearance of
500 sites or properties of historical, architectural,
501 archaeological, or cultural significance; or maintaining
502 existing land uses and which prohibits or limits any or all of
503 the following:

504 (a) Construction or placing of buildings, roads, signs,



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505 billboards or other advertising, utilities, or other structures
506 on or above the ground.

507 (b) Dumping or placing of soil or other substance or
508 material as landfill or dumping or placing of trash, waste, or
509 unsightly or offensive materials.

510 (c) Removal or destruction of trees, shrubs, or other
511 vegetation.

512 (d) Excavation, dredging, or removal of loam, peat, gravel,
513 soil, rock, or other material substance in such manner as to
514 affect the surface.

515 (e) Surface use except for purposes that permit the land or
516 water area to remain predominantly in its natural condition.

517 (f) Activities detrimental to drainage, flood control,
518 water conservation, erosion control, soil conservation, or fish
519 and wildlife habitat preservation.

520 (g) Acts or uses detrimental to such retention of land or
521 water areas.

522 (h) Acts or uses detrimental to the preservation of the
523 structural integrity or physical appearance of sites or
524 properties of historical, architectural, archaeological, or
525 cultural significance.

526 (2) "Conservation protection agreement" has the same
527 meaning as provided in s. 196.1962.

528 (3) ~~(2)~~ Conservation easements and conservation protection
529 agreements are ~~perpetual~~, undivided interests in property and
530 may be created or stated in the form of an ~~a restriction,~~
531 ~~easement, covenant, or condition in any deed, will, or other~~
532 instrument executed by or on behalf of the owner of the
533 property, or in any order of taking. Such easements or



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534 agreements may be acquired in the same manner as other interests
535 in property are acquired, except by condemnation or by other
536 exercise of the power of eminent domain, and shall not be
537 unassignable to other governmental bodies or agencies,
538 charitable organizations, or trusts authorized to acquire such
539 easements, ~~for lack of benefit to a dominant estate.~~

540 (4)-(3) Conservation easements and conservation protection
541 agreements may be acquired by any governmental body or agency or
542 by a charitable corporation or trust whose purposes include
543 protecting natural, scenic, or open space values of real
544 property, assuring its availability for agricultural, forest,
545 recreational, or open space use, protecting natural resources,
546 maintaining or enhancing air or water quality, or preserving
547 sites or properties of historical, architectural,
548 archaeological, or cultural significance.

549 (5)-(4) Conservation easements and conservation protection
550 agreements shall run with the land and be binding on all
551 subsequent owners of the servient estate. Notwithstanding the
552 provisions of s. 197.552, all provisions of a conservation
553 easement or a conservation protection agreement shall survive
554 and are enforceable after the issuance of a tax deed. No
555 conservation easement shall be unenforceable on account of lack
556 of privity of contract or lack of benefit to particular land or
557 on account of the benefit being assignable. Conservation
558 easements and conservation protection agreements may be enforced
559 by injunction or proceeding in equity or at law, and shall
560 entitle the holder to enter the land in a reasonable manner and
561 at reasonable times to assure compliance. A conservation
562 easement or a conservation protection agreement may be released



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563 by the holder of the easement or the agreement to the holder of
564 the fee even though the holder of the fee may not be a
565 governmental body or a charitable corporation or trust.

566 ~~(6)~~~~(5)~~ All conservation easements and conservation
567 protection agreements shall be recorded in the official records
568 of the county in which the property subject to the easement or
569 agreement is located and indexed in the same manner as any other
570 instrument affecting the title to real property.

571 ~~(7)~~~~(6)~~ The provisions of this section shall not be
572 construed to imply that any restriction, easement, agreement,
573 covenant, or condition which does not have the benefit of this
574 section shall, on account of any provision hereof, be
575 unenforceable.

576 ~~(8)~~~~(7)~~ Recording of the conservation easement or
577 conservation protection agreement shall be notice to the
578 property appraiser and tax collector of the county of the
579 conveyance of the conservation easement or conservation
580 protection agreement.

581 ~~(9)~~~~(8)~~ Conservation easements and conservation protection
582 agreements may provide for a third-party right of enforcement.
583 As used in this section, third-party right of enforcement means
584 a right provided in a conservation easement or conservation
585 protection agreement to enforce any of its terms granted to a
586 governmental body, or charitable corporation or trust as
587 described in subsection (4) ~~(3)~~, which although eligible to be a
588 holder, is not a holder.

589 ~~(10)~~~~(9)~~ An action affecting a conservation easement or a
590 conservation protection agreement may be brought by:

591 (a) An owner of an interest in the real property burdened



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592 by the easement or agreement;

593 (b) A holder of the easement or agreement;

594 (c) A person having a third-party right of enforcement; or

595 (d) A person authorized by another law.

596 (11)~~(10)~~ The ownership or attempted enforcement of rights
597 held by the holder of an easement or agreement does not subject
598 the holder to any liability for any damage or injury that may be
599 suffered by any person on the property or as a result of the
600 condition of the property encumbered by a conservation easement
601 or a conservation protection agreement.

602 (12)~~(11)~~ ~~Nothing in~~ This section or other provisions of law
603 do not shall be construed to prohibit or limit the owner of
604 land, or the owner of a conservation easement or conservation
605 protection agreement over land, to voluntarily negotiate the
606 sale or utilization of such lands or easement or agreement for
607 the construction and operation of linear facilities, including
608 electric transmission and distribution facilities,
609 telecommunications transmission and distribution facilities,
610 pipeline transmission and distribution facilities, public
611 transportation corridors, and related appurtenances, nor shall
612 this section prohibit the use of eminent domain for said
613 purposes as established by law. In any legal proceeding to
614 condemn land for the purpose of construction and operation of a
615 linear facility as described above, the court shall consider the
616 public benefit provided by the conservation easement or the
617 conservation protection agreement and linear facilities in
618 determining which lands may be taken and the compensation paid.

619 Section 6. The Department of Revenue may adopt emergency
620 rules to administer s. 196.1062, Florida Statutes. The emergency



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621 rules shall remain in effect for 6 months after adoption and may
622 be renewed during the pendency of procedures to adopt rules
623 addressing the subject of the emergency rules.

624 Section 7. This act shall take effect July 1, 2009, and
625 applies to property tax assessment made on or after January 1,
626 2009.

627
628 ===== T I T L E A M E N D M E N T =====

629 And the title is amended as follows:

630 Delete everything before the enacting clause
631 and insert:

632 A bill to be entitled
633 An act relating to land used for conservation purposes; creating
634 s. 196.1962, F.S.; specifying conservation purposes for which
635 land must be used in order to qualify for an ad valorem tax
636 exemption; requiring that such land be perpetually encumbered by
637 a conservation easement or conservation protection agreement;
638 providing for the assessment and ad valorem taxation of real
639 property within an area perpetually encumbered by a conservation
640 easement or other instrument which contains improvements;
641 requiring land that is exempt from ad valorem taxation and used
642 for agricultural or silvicultural purposes be managed pursuant
643 to certain best-management practices; requiring an owner of land
644 that is exempt from ad valorem taxation to take actions to
645 preserve the perpetual effect of the conservation easement or
646 other instrument; providing that land of less than a certain
647 acreage does not qualify for the ad valorem tax exemption;
648 providing exceptions; requiring the Department of Revenue to
649 adopt rules; requiring the Department of Environmental



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650 Protection to adopt by rule a list of nonprofit entities that
651 are qualified to enforce the provisions of conservation easement
652 or conservation protection agreement; amending s. 193.501, F.S.;
653 defining terms; providing for the assessment of lands used for
654 conservation purposes; requiring such lands be used for
655 conservation purposes for at least 10 years; requiring a
656 covenant or conservation protection agreement to be recorded in
657 the official records; providing for the assessment of such land
658 based on character or use; requiring property appraisers to
659 issue a report relating to the just value and classified use
660 value of land used for conservation purposes; amending s.
661 195.073, F.S.; providing for the classification of lands used
662 for conservation purposes for the purposes of ad valorem
663 taxation; amending s. 196.011, F.S.; conforming a cross-
664 reference; requiring an annual application for the exemption for
665 land used for conservation purposes; requiring property owners
666 to notify the property appraiser of changes in the use of exempt
667 properties; providing penalties for failure to notify; creating
668 s. amending s. 704.06, F.S.; revising requirements for
669 conservation easements and conservation protection agreements;
670 authorizing the Department of Revenue to adopt emergency rules;
671 providing for application; providing an effective date.