

By the Committee on Environmental Preservation and Conservation;
and Senator Altman

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1 A bill to be entitled
2 An act relating to land used for conservation
3 purposes; creating s. 196.1962, F.S.; specifying
4 conservation purposes for which land must be used in
5 order to qualify for an ad valorem tax exemption;
6 requiring that such land be perpetually encumbered by
7 a conservation easement or conservation protection
8 agreement; providing for the assessment and ad valorem
9 taxation of real property within an area perpetually
10 encumbered by a conservation easement or other
11 instrument and which contains improvements; requiring
12 land that is exempt from ad valorem taxation and used
13 for agricultural or silvicultural purposes be managed
14 pursuant to certain best-management practices;
15 requiring an owner of land that is exempt from ad
16 valorem taxation to take actions to preserve the
17 perpetual effect of the conservation easement or other
18 instrument; providing that land of less than a certain
19 acreage does not qualify for the ad valorem tax
20 exemption; providing exceptions; requiring the
21 Department of Revenue to adopt rules; requiring the
22 Department of Environmental Protection to adopt by
23 rule a list of nonprofit entities that are qualified
24 to enforce the provisions of a conservation easement
25 or conservation protection agreement; amending s.
26 193.501, F.S.; defining terms; providing for the
27 assessment of lands used for conservation purposes;
28 requiring that such lands be used for conservation
29 purposes for at least 10 years; requiring a covenant

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30 or conservation protection agreement to be recorded in
31 the official records; providing for the assessment of
32 such land based on character or use; providing for the
33 assessment of land if a conservation management plan
34 extends for a specified period and the landowner has
35 provided certain documentation to the property
36 appraiser; requiring the filing of such plans with the
37 Fish and Wildlife Conservation Commission or a water
38 management district under certain circumstances;
39 requiring that the commission and the Department of
40 Environmental Protection produce a guidance document
41 establishing the form and content of a conservation
42 management plan and establishing certain minimum
43 standards for such plans; authorizing a property
44 appraiser to require a signed application that
45 includes certain statements by a landowner; requiring
46 property appraisers to issue a report relating to the
47 just value and classified use value of land used for
48 conservation purposes; amending s. 195.073, F.S.;
49 providing for the classification of lands used for
50 conservation purposes for the purposes of ad valorem
51 taxation; amending s. 196.011, F.S.; conforming a
52 cross-reference; requiring an annual application for
53 the exemption for land used for conservation purposes;
54 requiring property owners to notify the property
55 appraiser of changes in the use of exempt properties;
56 providing penalties for failure to notify; creating s.
57 218.125, F.S.; requiring the Legislature to
58 appropriate moneys to replace the reductions in ad

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59 valorem tax revenue experienced by fiscally
60 constrained counties; requiring each fiscally
61 constrained county to apply to the Department of
62 Revenue to participate in the distribution of the
63 appropriation; specifying the documentation that must
64 be provided to the department; providing a formula for
65 calculating the reduction in ad valorem tax revenue;
66 amending s. 704.06, F.S.; revising requirements for
67 conservation easements and conservation protection
68 agreements; authorizing the Department of Revenue to
69 adopt emergency rules; providing for application of
70 the act; providing an effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Section 196.1962, Florida Statutes, is created
75 to read:

76 196.1962 Exemption of real property dedicated in perpetuity
77 for conservation purposes.-

78 (1) Pursuant to s. 3(f), Art. VII of the State
79 Constitution, real property that is dedicated in perpetuity for
80 the conservation purposes specified in this section is exempt
81 from ad valorem taxation.

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

85 1. Requires the property to serve a conservation purpose,
86 as defined in 26 U.S.C. s. 170(h)(4)(A), which serves as the
87 basis of a qualified conservation contribution under 26 U.S.C.

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88 s. 170(h); or

89 2.a. Requires the perpetual retention of the substantial
90 natural value of the property, including, but not limited to,
91 woodlands, wetlands, water courses, ponds, streams, and natural
92 open spaces or requires the restoration of the natural resources
93 of the land;

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

96 c. Prohibits subsurface excavation, billboards, trash,
97 unlawful pollutants, new paved roads, or residential or
98 commercial structures on the property and requires the property
99 to be kept in essentially its natural state;

100 d. Includes baseline documentation as to the natural values
101 to be protected on the property and may include a management
102 plan that details the management of the property so as to
103 effectuate the conservation of natural resources on the
104 property;

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

109 f. Allows for periodic review by any enforcing entity of
110 the provisions of the easement or conservation protection
111 agreement;

112 g. Provides for the perpetual enforcement of the provisions
113 of the easement or conservation protection agreement against any
114 present or future owner of the property; and

115 h. Provides that the conservation easement or other
116 conservation protection agreement is perpetual and nonrevocable.

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117 (b) For purposes of this section, the term "conservation
118 protection agreement" means a deed restriction, land use
119 agreement, or covenant running with the land which dedicates the
120 property for conservation purposes.

121 (c) If property receiving the exemption under this section
122 contains improvements, the portion of the property consisting of
123 improvements and curtilage must be assessed separately pursuant
124 to the provisions of chapter 193.

125 (2) Real property that is exempt from ad valorem taxation
126 pursuant to this section and is used for agricultural or
127 silvicultural purposes must be maintained pursuant to the most
128 recent best-management practices established by the Division of
129 Forestry of the Department of Agriculture and Consumer Services
130 or other entity designated by the department.

131 (3) An owner of real property that is exempt from ad
132 valorem taxation pursuant to this section shall abide by the
133 requirements of the Florida Marketable Record Title Act, chapter
134 712, or any other similar law or rule to preserve the effect of
135 the qualifying conservation easement or other conservation
136 protection agreement in perpetuity.

137 (4) (a) Notwithstanding subsection (1), real property that
138 is perpetually encumbered by a conservation easement or other
139 conservation protection agreement and that is less than 40
140 contiguous acres is not entitled to the exemption under this
141 section unless the property:

142 1. Contains a natural sinkhole or a natural spring that
143 serves a significant water recharge or water production
144 function;

145 2. Contains a unique geological feature;

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

150 4. Includes a shoreline adjacent to a beach on the Atlantic
151 Ocean or Gulf of Mexico, Outstanding Florida Waters, an Estuary
152 of National Significance, or an American Heritage River; or

153 5. Is adjacent to public lands that are managed for
154 conservation purposes or other private lands that are
155 perpetually encumbered by a conservation easement or other
156 conservation protection agreement, and is at least 5 contiguous
157 acres in size.

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

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

165 (6) The Department of Environmental Protection shall adopt
166 by rule a list of nonprofit entities that are qualified to
167 enforce the provisions of an easement or other conservation
168 protection agreement.

169 Section 2. Section 193.501, Florida Statutes, is amended to
170 read:

171 193.501 Assessment of lands used for conservation purposes
172 ~~subject to a conservation easement, environmentally endangered~~
173 ~~lands, or lands used for outdoor recreational or park purposes~~
174 ~~when land development rights have been conveyed or conservation~~

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175 ~~restrictions have been covenanted.~~

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

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

179 1. Lands designated as environmentally endangered lands by
180 a formal resolution of the governing body of the local
181 government within whose jurisdictional boundaries the land is
182 located;

183 2. Land designated as conservation land in a local
184 comprehensive plan adopted by the appropriate local governing
185 body pursuant to chapter 163;

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

188 4. Lands used for the conservation specified in s. 196.1962
189 when a conservation easement or a conservation protection
190 agreement has been executed pursuant to s. 704.06; or

191 5. Land for which a conservation management plan has been
192 filed with the Fish and Wildlife Conservation Commission or a
193 water management district and for which the activities and
194 actions are being carried out according the conservation
195 management plan.

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

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

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

202 (e) "Deferred tax liability" means an amount equal to the
203 difference between the total amount of taxes that would have

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204 been due in March in each of the previous years in which the
205 conveyance or covenant was in effect if the property had been
206 assessed under the provisions of s. 193.011 and the total amount
207 of taxes actually paid in those years if the property was
208 assessed as provided in this section, plus interest on that
209 difference. The interest accrues at the rate of 1 percent per
210 month beginning on the 21st day of the month following the month
211 in which the full amount of tax based on an assessment pursuant
212 to s. 193.011 would have been due.

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

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

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

221 1. Land that has unique ecological characteristics, rare or
222 limited combinations of geological formations, or features of a
223 rare or limited nature constituting habitat suitable for fish,
224 plants, or wildlife, and which, if subject to a development
225 moratorium or one or more conservation easements or development
226 restrictions appropriate to retaining such land or water areas
227 predominantly in their natural state, would be consistent with
228 the conservation, recreation, and open space and, if applicable,
229 coastal protection elements of the comprehensive plan adopted by
230 formal action of the local governing body pursuant to s.
231 163.3161, the Local Government Comprehensive Planning and Land
232 Development Regulation Act; or

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233 2. Surface waters and wetlands as determined by the
234 methodology ratified by s. 373.4211.

235 (i) "Conservation management plan" means a document filed
236 with the Fish and Wildlife Conservation Commission or a water
237 management district specifying actions and activities to be
238 undertaken on an annual basis for a period of at least 10 years
239 to manage land for the benefit of native wildlife and habitat,
240 native plant and animal communities, and natural water features.

241 (2) ~~(1)~~ The owner or owners in fee of any land used for
242 conservation ~~subject to a conservation easement as described in~~
243 ~~s. 704.06(1); land qualified as environmentally endangered~~
244 ~~pursuant to paragraph (6) (i) and so designated by formal~~
245 ~~resolution of the governing board of the municipality or county~~
246 ~~within which such land is located; land designated as~~
247 ~~conservation land in a comprehensive plan adopted by the~~
248 ~~appropriate municipal or county governing body; or any land~~
249 ~~which is utilized for outdoor recreational or park purposes may,~~
250 ~~by appropriate instrument, for a term of at least ~~not less than~~~~
251 ~~10 years:~~

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

257 (b) Covenant with the governing board of any public agency
258 in this state within which the land is located, or with the
259 Board of Trustees of the Internal Improvement Trust Fund, or
260 with a charitable corporation or trust as described in s.
261 704.06(4) ~~s. 704.06(3)~~, that such land be subject to one or more

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262 of the prohibitions or limitations ~~conservation restrictions~~
263 provided in s. 704.06(1) or that not be used by the owner may
264 not use the land for any purpose other than outdoor recreational
265 or park purposes if development rights are conveyed. If land is
266 covenanted and used for an outdoor recreational purpose, the
267 normal use and maintenance of the land for that purpose,
268 consistent with the covenant, shall not be restricted.

269 (3)-(2) The governing board of any public agency in this
270 state, or the Board of Trustees of the Internal Improvement
271 Trust Fund, or a charitable corporation or trust as described in
272 s. 704.06(4) ~~s. 704.06(3)~~, is authorized and empowered in its
273 discretion to accept any and all instruments that convey
274 ~~conveying~~ the development right of any such land or establish
275 ~~establishing~~ a covenant for a term of at least 10 years.
276 ~~pursuant to subsection (1), and~~ If accepted by the board or
277 charitable corporation or trust, the instrument shall be
278 promptly recorded in the official public records of the county
279 in which the land is located ~~filed with the appropriate officer~~
280 ~~for recording in the same manner as any other instrument~~
281 ~~affecting the title to real property~~.

282 (4)-(3) When, ~~pursuant to subsections (1) and (2),~~ the
283 development right in real property has been conveyed to the
284 governing board of any public agency of this state, to the Board
285 of Trustees of the Internal Improvement Trust Fund, or to a
286 charitable corporation or trust as described in s. 704.06(3) ~~s.~~
287 ~~704.06(2)~~, or a covenant has been executed and accepted by the
288 board or charitable corporation or trust, the lands which are
289 the subject of such conveyance or covenant shall be thereafter
290 assessed as provided herein:

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291 (a) If the covenant or conveyance extends for a period of
292 at least not less than 10 years following ~~from~~ January 1 in the
293 year such assessment is made, the property appraiser, ~~in valuing~~
294 ~~such land for tax purposes,~~ shall assess the land solely on the
295 basis of character or use ~~consider no factors other than those~~
296 ~~relative to its value for the present use, as restricted by any~~
297 ~~conveyance or covenant under this section.~~

298 (b) If the covenant or conveyance extends for a period less
299 than 10 years, the land shall be assessed under the provisions
300 of s. 193.011, recognizing the nature and length thereof of any
301 restriction placed on the use of the land under the provisions
302 of subsection (1).

303 (5) If a conservation management plan extends for a period
304 of at least 10 years following January 1 in the year the plan is
305 filed with the appropriate agency and the landowner has provided
306 a current copy of the conservation management plan to the
307 property appraiser along with a signed statement of the
308 landowner's good-faith intention to use the land only for
309 conservation purposes before March 1 of the same year, the
310 property appraiser shall assess the land solely on the basis of
311 character of use.

312 (a) Plans required by this subsection must be filed with
313 the Fish and Wildlife Conservation Commission if the primary
314 conservation use is restoration or protection of native wildlife
315 habitat or native plant and animal communities.

316 (b) Plans required by this subsection must be filed with
317 the water management district within the boundaries of which the
318 land is located if the primary conservation use is restoration
319 or protection of natural water features.

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320 (c) The commission and the Department of Environmental
321 Protection shall produce a guidance document establishing the
322 form and content of a conservation management plan and
323 establishing minimum standards for such plans regarding
324 restoration and protection of wildlife habitats, plant and
325 animal communities, and natural water features; control of
326 exotic species; use of prescribed fire; removal of diseased and
327 damaged vegetation; and other activities as may be necessary to
328 manage conservation land for the benefit of wildlife, plant and
329 animal communities, and water resources.

330 (d) The property appraiser may require a signed application
331 that includes a statement of the landowner's good-faith
332 intention to use the land only for conservation purposes as
333 described in this section, to keep such uses for a period of 10
334 years after the date of the application, and, upon failure to
335 carry out the conservation management plan, to pay the
336 difference between the total amount of taxes assessed and the
337 total amount that would have been due in March of the current
338 year and each of the previous 10 years if the land had not been
339 assessed solely on the basis of character or use as provided in
340 this section.

341 (6)-(4) After conveying making a conveyance of the
342 development right or executing a covenant or conservation
343 protection agreement pursuant to this section, or conveying a
344 conservation easement pursuant to this section and s. 704.06,
345 the owner of the land shall not use the land in any manner not
346 consistent with the development right voluntarily conveyed, or
347 with the restrictions voluntarily imposed, or with the terms of
348 the conservation easement or conservation protection agreement,

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349 or shall not change the use of the land from outdoor
350 recreational or park purposes during the term of such conveyance
351 or covenant without first obtaining a written instrument from
352 the board or charitable corporation or trust, which must
353 reconvey to the owner ~~instrument reconveys~~ all or part of the
354 development right ~~to the owner~~ or which must release ~~releases~~
355 the owner from the terms of the covenant. The written instrument
356 must be recorded in the official records of the county in which
357 the property subject to the reconveyance or release is located
358 ~~and which instrument must be promptly recorded in the same~~
359 ~~manner as any other instrument affecting the title to real~~
360 ~~property.~~ Upon obtaining approval for reconveyance or release
361 from the board or the charitable organization or trust, the
362 reconveyance or release shall be made to the owner upon payment
363 of the deferred tax liability. Any payment of the deferred tax
364 liability shall be payable to the county tax collector within 90
365 days of the date of approval for reconveyance or release ~~by the~~
366 ~~board or charitable corporation or trust of the reconveyance or~~
367 ~~release.~~ The collector shall distribute the payment to each
368 governmental unit in the proportion that its millage bears to
369 the total millage levied on the parcel for the years in which
370 such conveyance or covenant was in effect.

371 (7) ~~(5)~~ The governing board of any public agency in this
372 state or the Board of Trustees of the Internal Improvement Trust
373 Fund or a charitable corporation or trust which holds title to a
374 development right pursuant to this section may not convey that
375 development right to anyone other than the governing board of
376 another public agency in this state or a charitable corporation
377 or trust, as described in s. 704.06(4) ~~s. 704.06(3)~~, or the

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378 record owner of the fee interest in the land to which the
379 development right attaches. The conveyance from the governing
380 board of a public agency or the Board of Trustees of the
381 Internal Improvement Trust Fund to the owner of the fee shall be
382 made only after a determination by the board that such
383 conveyance would not adversely affect the interest of the
384 public. Section 125.35 does not apply to such sales, but any
385 public agency accepting any instrument conveying a development
386 right pursuant to this section shall forthwith adopt appropriate
387 regulations and procedures governing the disposition of same.
388 These regulations and procedures must provide in part that the
389 board may not convey a development right to the owner of the fee
390 without first holding a public hearing and unless notice of the
391 proposed conveyance and the time and place at which the public
392 hearing is to be held is published once a week for at least 2
393 weeks in some newspaper of general circulation in the county in
394 which the property is located before ~~involved prior to~~ the
395 hearing.

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

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

402 ~~(b) "Conservation restriction" means a limitation on a~~
403 ~~right to the use of land for purposes of conserving or~~
404 ~~preserving land or water areas predominantly in their natural,~~
405 ~~scenic, open, agricultural, or wooded condition. The limitation~~
406 ~~on rights to the use of land may involve or pertain to any of~~

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407 ~~the activities enumerated in s. 704.06(1).~~

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

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

411 ~~(e) "Deferred tax liability" means an amount equal to the~~
412 ~~difference between the total amount of taxes that would have~~
413 ~~been due in March in each of the previous years in which the~~
414 ~~conveyance or covenant was in effect if the property had been~~
415 ~~assessed under the provisions of s. 193.011 and the total amount~~
416 ~~of taxes actually paid in those years when the property was~~
417 ~~assessed under the provisions of this section, plus interest on~~
418 ~~that difference computed as provided in s. 212.12(3).~~

419 ~~(f) "Development right" is the right of the owner of the~~
420 ~~fee interest in the land to change the use of the land.~~

421 ~~(g) "Outdoor recreational or park purposes" includes, but~~
422 ~~is not necessarily limited to, boating, golfing, camping,~~
423 ~~swimming, horseback riding, and archaeological, scenic, or~~
424 ~~scientific sites and applies only to land which is open to the~~
425 ~~general public.~~

426 ~~(h) "Present use" is the manner in which the land is~~
427 ~~utilized on January 1 of the year in which the assessment is~~
428 ~~made.~~

429 ~~(i) "Qualified as environmentally endangered" means land~~
430 ~~that has unique ecological characteristics, rare or limited~~
431 ~~combinations of geological formations, or features of a rare or~~
432 ~~limited nature constituting habitat suitable for fish, plants,~~
433 ~~or wildlife, and which, if subject to a development moratorium~~
434 ~~or one or more conservation easements or development~~
435 ~~restrictions appropriate to retaining such land or water areas~~

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436 ~~predominantly in their natural state, would be consistent with~~
437 ~~the conservation, recreation and open space, and, if applicable,~~
438 ~~coastal protection elements of the comprehensive plan adopted by~~
439 ~~formal action of the local governing body pursuant to s.~~
440 ~~163.3161, the Local Government Comprehensive Planning and Land~~
441 ~~Development Regulation Act; or surface waters and wetlands, as~~
442 ~~determined by the methodology ratified in s. 373.4211.~~

443 (8)~~(7)~~(a) The property appraiser shall report to the
444 department showing the just value and the classified use value
445 of lands used for property that is subject to a conservation
446 purposes pursuant to this section ~~easement under s. 704.06,~~
447 ~~property assessed as environmentally endangered land pursuant to~~
448 ~~this section, and property assessed as outdoor recreational or~~
449 ~~park land.~~

450 (b) The tax collector shall annually report to the
451 department the amount of deferred tax liability collected
452 pursuant to this section.

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

455 195.073 Classification of property.—All items required by
456 law to be on the assessment rolls must receive a classification
457 based upon the use of the property. The department shall
458 promulgate uniform definitions for all classifications. The
459 department may designate other subclassifications of property.
460 No assessment roll may be approved by the department which does
461 not show proper classifications.

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

464 (a) Residential, subclassified into categories, one

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465 category for homestead property and one for nonhomestead
466 property:

467 1. Single family.

468 2. Mobile homes.

469 3. Multifamily.

470 4. Condominiums.

471 5. Cooperatives.

472 6. Retirement homes.

473 (b) Commercial and industrial.

474 (c) Agricultural.

475 (d) Nonagricultural acreage.

476 (e) High-water recharge.

477 (f) Historic property used for commercial or certain
478 nonprofit purposes.

479 (g) Exempt, wholly or partially.

480 (h) Centrally assessed.

481 (i) Leasehold interests.

482 (j) Time-share property.

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

484 (l)~~(k)~~ Other.

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

488 196.011 Annual application required for exemption.—

489 (1)

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

491 196.081, s. 196.091, s. 196.101, 196.1962, or s. 196.202 ~~s.~~

492 ~~196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202~~ must

493 include a space for the applicant to list the social security

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494 number of the applicant and of the applicant's spouse, if any.
495 If an applicant files a timely and otherwise complete
496 application, and omits the required social security numbers, the
497 application is incomplete. In that event, the property appraiser
498 shall contact the applicant, who may refile a complete
499 application by April 1. Failure to file a complete application
500 by that date constitutes a waiver of the exemption privilege for
501 that year, except as provided in subsection (7) or subsection
502 (8).

503 (6) (a) Once an original application for tax exemption has
504 been granted, in each succeeding year on or before February 1,
505 the property appraiser shall mail a renewal application to the
506 applicant, and the property appraiser shall accept from each
507 such applicant a renewal application on a form ~~to be~~ prescribed
508 by the Department of Revenue. Such renewal application shall be
509 accepted as evidence of exemption by the property appraiser
510 unless he or she denies the application. Upon denial, the
511 property appraiser shall serve, on or before July 1 of each
512 year, a notice setting forth the grounds for denial on the
513 applicant by first-class mail. Any applicant objecting to such
514 denial may file a petition as provided for in s. 194.011(3).

515 (b) Once an original application for the tax exemption has
516 been granted under s. 196.1962, in each succeeding year on or
517 before February 1, the property appraiser shall mail a renewal
518 application to the applicant on a form prescribed by the
519 Department of Revenue. The applicant must certify on the form
520 that the use of the property has not changed. The form shall
521 include a statement that the exemption granted under s. 196.1962
522 will not be renewed unless application is returned to the

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523 property appraiser.

524 (9) (a) A county may, at the request of the property
525 appraiser and by a majority vote of its governing body, waive
526 the requirement that an annual application or statement be made
527 for exemption of property within the county after an initial
528 application is made and the exemption granted. The waiver under
529 this subsection of the annual application or statement
530 requirement applies to all exemptions under this chapter except
531 the exemption under s. 196.1995. Notwithstanding such waiver,
532 refiling of an application or statement shall be required when
533 any property granted an exemption is sold or otherwise disposed
534 of, when the ownership changes in any manner, when the applicant
535 for homestead exemption ceases to use the property as his or her
536 homestead, or when the status of the owner changes so as to
537 change the exempt status of the property. In its deliberations
538 on whether to waive the annual application or statement
539 requirement, the governing body shall consider the possibility
540 of fraudulent exemption claims which may occur due to the waiver
541 of the annual application requirement. ~~It is~~ The duty of the
542 owner of any property granted an exemption who is not required
543 to file an annual application or statement has a duty to notify
544 the property appraiser promptly whenever the use of the property
545 or the status or condition of the owner changes so as to change
546 the exempt status of the property. If any property owner fails
547 to so notify the property appraiser and the property appraiser
548 determines that for any year within the prior 10 years the owner
549 was not entitled to receive such exemption, the owner of the
550 property is subject to the taxes exempted as a result of such
551 failure plus 15 percent interest per annum and a penalty of 50

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552 percent of the taxes exempted. Except for homestead exemptions
553 controlled by s. 196.161, ~~it is the duty of~~ the property
554 appraiser making such determination has a duty to record in the
555 public records of the county a notice of tax lien against any
556 property owned by that person or entity in the county, and such
557 property must be identified in the notice of tax lien. Such
558 property is subject to the payment of all taxes and penalties.
559 Such lien when filed shall attach to any property, identified in
560 the notice of tax lien, owned by the person who illegally or
561 improperly received the exemption. Should such person no longer
562 own property in that county, but own property in some other
563 county or counties in the state, ~~it shall be the duty of~~ the
564 property appraiser has a duty to record a notice of tax lien in
565 such other county or counties, identifying the property owned by
566 such person or entity in such county or counties, and it shall
567 become a lien against such property in such county or counties.

568 (b) The owner of any property granted an exemption under s.
569 196.1962 has a duty to notify the property appraiser promptly
570 whenever the use of the property changes. If the property owner
571 fails to so notify the property appraiser and the property
572 appraiser determines that for any year within the preceding 10
573 years the owner was not entitled to receive the exemption, the
574 owner of the property is subject to taxes exempted as a result
575 of the failure plus 18 percent interest per annum and a penalty
576 of 100 percent of the taxes exempted. The provisions for tax
577 liens in paragraph (a) apply to property granted an exemption
578 under s. 196.1962.

579 (c) ~~(b)~~ A county may, at the request of the property
580 appraiser and by a majority vote of its governing body, waive

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581 the requirement that an annual application be made for the
582 veteran's disability discount granted pursuant to s. 6(g), Art.
583 VII of the State Constitution after an initial application is
584 made and the discount granted. ~~It is the duty of~~ The disabled
585 veteran receiving a discount for which annual application has
586 been waived has a duty to notify the property appraiser promptly
587 whenever the use of the property or the percentage of disability
588 to which the veteran is entitled changes. If a disabled veteran
589 fails to notify the property appraiser and the property
590 appraiser determines that for any year within the prior 10 years
591 the veteran was not entitled to receive all or a portion of such
592 discount, the penalties and processes in paragraph (a) relating
593 to the failure to notify the property appraiser of ineligibility
594 for an exemption shall apply.

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

598 (e) ~~(d)~~ If an exemption for which the annual application is
599 waived pursuant to this subsection will be denied by the
600 property appraiser in the absence of the refiling of the
601 application, notification of an intent to deny the exemption
602 shall be mailed to the owner of the property prior to February
603 1. If the property appraiser fails to timely mail such notice,
604 the application deadline for such property owner pursuant to
605 subsection (1) shall be extended to 28 days after the date on
606 which the property appraiser mails such notice.

607 Section 5. Section 218.125, Florida Statutes, is created to
608 read:

609 218.125 Replacement for tax loss associated with certain

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610 constitutional amendments affecting fiscally constrained
611 counties.-

612 (1) Beginning in the 2009-2010 fiscal year, the Legislature
613 shall appropriate moneys to replace the reductions in ad valorem
614 tax revenue experienced by fiscally constrained counties, as
615 defined in s. 218.67(1), which occur as a direct result of the
616 implementation of revisions of ss. 3(f) and 4(b) of Art. VII of
617 the State Constitution which were approved in the general
618 election held in November 2008. The moneys appropriated for this
619 purpose shall be distributed in January of each fiscal year
620 among the fiscally constrained counties based on each county's
621 proportion of the total reduction in ad valorem tax revenue
622 resulting from the implementation of the revisions.

623 (2) On or before November 15 of each year, beginning in
624 2010, each fiscally constrained county shall apply to the
625 Department of Revenue to participate in the distribution of the
626 appropriation and provide documentation supporting the county's
627 estimated reduction in ad valorem tax revenue in the form and
628 manner prescribed by the Department of Revenue. The
629 documentation must include an estimate of the reduction in
630 taxable value directly attributable to revisions of Art. VII of
631 the State Constitution for all county taxing jurisdictions
632 within the county and shall be prepared by the property
633 appraiser in each fiscally constrained county. The documentation
634 must also include the county millage rates applicable in all
635 such jurisdictions for the current year and the prior year,
636 roll-back rates determined as provided in s. 200.065 for each
637 county taxing jurisdiction, and maximum millage rates that could
638 have been levied by majority vote pursuant to s. 200.185. For

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639 purposes of this section, each fiscally constrained county's
640 reduction in ad valorem tax revenue shall be calculated as 95
641 percent of the estimated reduction in taxable value times the
642 lesser of the 2009 applicable millage rate or the applicable
643 millage rate for each county taxing jurisdiction in the prior
644 year.

645 Section 6. Section 704.06, Florida Statutes, is amended to
646 read:

647 704.06 Conservation easements and conservation protection
648 agreements; creation; acquisition; enforcement.—

649 (1) As used in this section, "conservation easement" means
650 a transferable right or interest in real property which may be
651 perpetual or limited to a certain term, and which is appropriate
652 to retaining land or water areas predominantly in their natural,
653 scenic, open, agricultural, or wooded condition; retaining such
654 areas as suitable habitat for fish, plants, or wildlife;
655 retaining the structural integrity or physical appearance of
656 sites or properties of historical, architectural,
657 archaeological, or cultural significance; or maintaining
658 existing land uses and which prohibits or limits any or all of
659 the following:

660 (a) Construction or placing of buildings, roads, signs,
661 billboards or other advertising, utilities, or other structures
662 on or above the ground.

663 (b) Dumping or placing of soil or other substance or
664 material as landfill or dumping or placing of trash, waste, or
665 unsightly or offensive materials.

666 (c) Removal or destruction of trees, shrubs, or other
667 vegetation.

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

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

673 (f) Activities detrimental to drainage, flood control,
674 water conservation, erosion control, soil conservation, or fish
675 and wildlife habitat preservation.

676 (g) Acts or uses detrimental to such retention of land or
677 water areas.

678 (h) Acts or uses detrimental to the preservation of the
679 structural integrity or physical appearance of sites or
680 properties of historical, architectural, archaeological, or
681 cultural significance.

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

684 (3)~~(2)~~ Conservation easements and conservation protection
685 agreements are ~~perpetual,~~ undivided interests in property and
686 may be created or stated in the form of an ~~a restriction,~~
687 ~~easement, covenant, or condition in any deed, will, or other~~
688 instrument executed by or on behalf of the owner of the
689 property, or in any order of taking. Such easements or
690 agreements may be acquired in the same manner as other interests
691 in property are acquired, except by condemnation or by other
692 exercise of the power of eminent domain, and shall not be
693 unassignable to other governmental bodies or agencies,
694 charitable organizations, or trusts authorized to acquire such
695 easements, ~~for lack of benefit to a dominant estate.~~

696 (4)~~(3)~~ Conservation easements and conservation protection

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697 agreements may be acquired by any governmental body or agency or
698 by a charitable corporation or trust whose purposes include
699 protecting natural, scenic, or open space values of real
700 property, assuring its availability for agricultural, forest,
701 recreational, or open space use, protecting natural resources,
702 maintaining or enhancing air or water quality, or preserving
703 sites or properties of historical, architectural,
704 archaeological, or cultural significance.

705 (5)~~(4)~~ Conservation easements and conservation protection
706 agreements shall run with the land and be binding on all
707 subsequent owners of the servient estate. Notwithstanding the
708 provisions of s. 197.552, all provisions of a conservation
709 easement or a conservation protection agreement shall survive
710 and are enforceable after the issuance of a tax deed. No
711 conservation easement shall be unenforceable on account of lack
712 of privity of contract or lack of benefit to particular land or
713 on account of the benefit being assignable. Conservation
714 easements and conservation protection agreements may be enforced
715 by injunction or proceeding in equity or at law, and shall
716 entitle the holder to enter the land in a reasonable manner and
717 at reasonable times to assure compliance. A conservation
718 easement or a conservation protection agreement may be released
719 by the holder of the easement or the agreement to the holder of
720 the fee even though the holder of the fee may not be a
721 governmental body or a charitable corporation or trust.

722 (6)~~(5)~~ All conservation easements and conservation
723 protection agreements shall be recorded in the official records
724 of the county in which the property subject to the easement or
725 agreement is located ~~and indexed in the same manner as any other~~

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726 ~~instrument affecting the title to real property.~~

727 ~~(7)-(6)~~ The provisions of this section shall not be
728 construed to imply that any restriction, easement, agreement,
729 covenant, or condition which does not have the benefit of this
730 section shall, on account of any provision hereof, be
731 unenforceable.

732 ~~(8)-(7)~~ Recording of the conservation easement or
733 conservation protection agreement shall be notice to the
734 property appraiser and tax collector of the county of the
735 conveyance of the conservation easement or conservation
736 protection agreement.

737 ~~(9)-(8)~~ Conservation easements and conservation protection
738 agreements may provide for a third-party right of enforcement.
739 As used in this section, third-party right of enforcement means
740 a right provided in a conservation easement or conservation
741 protection agreement to enforce any of its terms granted to a
742 governmental body, or charitable corporation or trust as
743 described in subsection ~~(4) (3)~~, which although eligible to be a
744 holder, is not a holder.

745 ~~(10)-(9)~~ An action affecting a conservation easement or a
746 conservation protection agreement may be brought by:

747 (a) An owner of an interest in the real property burdened
748 by the easement or agreement;

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

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

751 (d) A person authorized by another law.

752 ~~(11)-(10)~~ The ownership or attempted enforcement of rights
753 held by the holder of an easement or agreement does not subject
754 the holder to any liability for any damage or injury that may be

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755 suffered by any person on the property or as a result of the
756 condition of the property encumbered by a conservation easement
757 or a conservation protection agreement.

758 (12)~~(11)~~ ~~Nothing in~~ This section or other provisions of law
759 do not shall be construed to prohibit or limit the owner of
760 land, or the owner of a conservation easement or conservation
761 protection agreement over land, to voluntarily negotiate the
762 sale or utilization of such lands or easement or agreement for
763 the construction and operation of linear facilities, including
764 electric transmission and distribution facilities,
765 telecommunications transmission and distribution facilities,
766 pipeline transmission and distribution facilities, public
767 transportation corridors, and related appurtenances, nor shall
768 this section prohibit the use of eminent domain for said
769 purposes as established by law. In any legal proceeding to
770 condemn land for the purpose of construction and operation of a
771 linear facility as described above, the court shall consider the
772 public benefit provided by the conservation easement or the
773 conservation protection agreement and linear facilities in
774 determining which lands may be taken and the compensation paid.

775 Section 7. The Department of Revenue may adopt emergency
776 rules to administer s. 196.1962, Florida Statutes. The emergency
777 rules shall remain in effect for 6 months after adoption and may
778 be renewed during the pendency of procedures to adopt rules
779 addressing the subject of the emergency rules.

780 Section 8. This act shall take effect July 1, 2009, and
781 applies to property tax assessment made on or after January 1,
782 2009.