

By the Committees on Finance and Tax; and Environmental Preservation and Conservation; and Senator Altman

593-05682A-09

20092244c2

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

593-05682A-09

20092244c2

30 requiring a covenant or conservation protection
31 agreement to be recorded in the official records;
32 providing for the assessment of such land based on
33 character or use; requiring the owner of the land to
34 annually apply to the property appraiser by a certain
35 date for the assessment based on character or use;
36 authorizing the value adjustment board to grant late
37 applications for such assessments if extenuating
38 circumstances are shown; providing for the assessment
39 of land if a conservation management plan extends for
40 a specified period and the landowner has provided
41 certain documentation to the property appraiser;
42 requiring the filing of such plans with the Fish and
43 Wildlife Conservation Commission or a water management
44 district under certain circumstances; requiring that
45 the commission and the Department of Environmental
46 Protection produce a guidance document establishing
47 the form and content of a conservation management plan
48 and establishing certain minimum standards for such
49 plans; authorizing a property appraiser to require a
50 signed application that includes certain statements by
51 a landowner; requiring property appraisers to issue a
52 report relating to the just value and classified use
53 value of land used for conservation purposes; amending
54 s. 195.073, F.S.; providing for the classification of
55 lands used for conservation purposes for the purposes
56 of ad valorem taxation; amending s. 196.011, F.S.;

57 conforming a cross-reference; requiring an annual
58 application for the exemption for land used for

593-05682A-09

20092244c2

59 conservation purposes; requiring property owners to
60 notify the property appraiser of changes in the use of
61 exempt properties; providing penalties for failure to
62 notify; creating s. 218.125, F.S.; requiring the
63 Legislature to appropriate moneys to replace the
64 reductions in ad valorem tax revenue experienced by
65 fiscally constrained counties; requiring each fiscally
66 constrained county to apply to the Department of
67 Revenue to participate in the distribution of the
68 appropriation; specifying the documentation that must
69 be provided to the department; providing a formula for
70 calculating the reduction in ad valorem tax revenue;
71 amending s. 704.06, F.S.; revising requirements for
72 conservation easements and conservation protection
73 agreements; authorizing the Department of Revenue to
74 adopt emergency rules; providing for application of
75 the act; providing an effective date.

76
77 Be It Enacted by the Legislature of the State of Florida:

78
79 Section 1. Section 196.1962, Florida Statutes, is created
80 to read:

81 196.1962 Exemption of real property dedicated in perpetuity
82 for conservation purposes.-

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

87 (a) Real property qualifying for the exemption must be

593-05682A-09

20092244c2

88 perpetually encumbered by a valid and enforceable conservation
89 easement or other conservation protection agreement that:

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

94 2.a. Requires the perpetual retention of the substantial
95 natural value of the property, including, but not limited to,
96 woodlands, wetlands, water courses, ponds, streams, and natural
97 open spaces or requires the restoration of the natural resources
98 of the land;

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

101 c. Prohibits subsurface excavation, billboards, trash,
102 unlawful pollutants, new paved roads, or residential or
103 commercial structures on the property and requires the property
104 to be kept in essentially its natural state;

105 d. Includes baseline documentation as to the natural values
106 to be protected on the property and may include a management
107 plan that details the management of the property so as to
108 effectuate the conservation of natural resources on the
109 property;

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

114 f. Allows for periodic review by any enforcing entity of
115 the provisions of the easement or conservation protection
116 agreement;

593-05682A-09

20092244c2

117 g. Provides for the perpetual enforcement of the provisions
118 of the easement or conservation protection agreement against any
119 present or future owner of the property; and

120 h. Provides that the conservation easement or other
121 conservation protection agreement is perpetual and nonrevocable.

122 (b) For purposes of this section, the term:

123 1. "Conservation easement" has the same meaning as in s.
124 704.06;

125 2. "Conservation protection agreement" means a deed
126 restriction, land use agreement, or covenant running with the
127 land which dedicates the property for conservation purposes.

128 (c) If property receiving the exemption under this section
129 contains improvements, the portion of the property consisting of
130 improvements and curtilage must be assessed separately pursuant
131 to the provisions of chapter 193.

132 (2) Real property that is exempt from ad valorem taxation
133 pursuant to this section and is used for agricultural or
134 silvicultural purposes must be maintained pursuant to the most
135 recent best-management practices established by the Division of
136 Forestry of the Department of Agriculture and Consumer Services
137 or other entity designated by the department.

138 (3) An owner of real property that is exempt from ad
139 valorem taxation pursuant to this section shall abide by the
140 requirements of the Florida Marketable Record Title Act, chapter
141 712, or any other similar law or rule to preserve the effect of
142 the qualifying conservation easement or other conservation
143 protection agreement in perpetuity.

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

593-05682A-09

20092244c2

146 conservation protection agreement and that is less than 40
147 contiguous acres is not entitled to the exemption under this
148 section unless the property:

149 1. Contains a natural sinkhole or a natural spring that
150 serves a significant water recharge or water production
151 function;

152 2. Contains a unique geological feature;

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

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

160 5. Is adjacent to public lands that are managed for
161 conservation purposes or other private lands that are
162 perpetually encumbered by a conservation easement or other
163 conservation protection agreement, and is at least 5 contiguous
164 acres in size.

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

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

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

593-05682A-09

20092244c2

175 protection agreement.

176 Section 2. Section 193.501, Florida Statutes, is amended to
177 read:

178 193.501 Assessment of lands used for conservation purposes
179 ~~subject to a conservation easement, environmentally endangered~~
180 ~~lands, or lands used for outdoor recreational or park purposes~~
181 ~~when land development rights have been conveyed or conservation~~
182 ~~restrictions have been covenanted.-~~

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

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

186 1. Lands designated as environmentally endangered lands by
187 a formal resolution of the governing body of the local
188 government within whose jurisdictional boundaries the land is
189 located;

190 2. Land designated as conservation land in a local
191 comprehensive plan adopted by the appropriate local governing
192 body pursuant to chapter 163;

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

195 4. Lands used for the conservation purpose specified in s.
196 196.1962 when a conservation easement or a conservation
197 protection agreement has been executed pursuant to s. 704.06; or

198 5. Land for which a conservation management plan has been
199 filed with the Fish and Wildlife Conservation Commission or a
200 water management district and for which the activities and
201 actions are being carried out according the conservation
202 management plan.

203 (b) "Board" means the governing board of any municipality

593-05682A-09

20092244c2

204 county, or other public agency of the state, or the Board of
205 Trustees of the Internal Improvement Trust Fund.

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

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

209 (e) "Deferred tax liability" means an amount equal to the
210 difference between the total amount of taxes that would have
211 been due in March in each of the previous years in which the
212 conveyance or covenant was in effect if the property had been
213 assessed under the provisions of s. 193.011 and the total amount
214 of taxes actually paid in those years if the property was
215 assessed as provided in this section, plus interest on that
216 difference. The interest accrues at the rate of 1 percent per
217 month beginning on the 21st day of the month following the month
218 in which the full amount of tax based on an assessment pursuant
219 to s. 193.011 would have been due.

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

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

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

228 1. Land that has unique ecological characteristics, rare or
229 limited combinations of geological formations, or features of a
230 rare or limited nature constituting habitat suitable for fish,
231 plants, or wildlife, and which, if subject to a development
232 moratorium or one or more conservation easements or development

593-05682A-09

20092244c2

233 restrictions appropriate to retaining such land or water areas
234 predominantly in their natural state, would be consistent with
235 the conservation, recreation, and open space and, if applicable,
236 coastal protection elements of the comprehensive plan adopted by
237 formal action of the local governing body pursuant to s.
238 163.3161, the Local Government Comprehensive Planning and Land
239 Development Regulation Act; or

240 2. Surface waters and wetlands as determined by the
241 methodology ratified by s. 373.4211.

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

248 (2) ~~(1)~~ The owner or owners in fee of any land used for
249 conservation subject to a conservation easement as described in
250 s. 704.06(1); land qualified as environmentally endangered
251 pursuant to paragraph (6) (i) and so designated by formal
252 resolution of the governing board of the municipality or county
253 within which such land is located; land designated as
254 conservation land in a comprehensive plan adopted by the
255 appropriate municipal or county governing body; or any land
256 which is utilized for outdoor recreational or park purposes may,
257 by appropriate instrument, for a term of at least not less than
258 10 years:

259 (a) Convey the development right of such land to the
260 governing board of any public agency in this state within which
261 the land is located, or to the Board of Trustees of the Internal

593-05682A-09

20092244c2

262 Improvement Trust Fund, or to a charitable corporation or trust
263 as described in s. 704.06(4) ~~s. 704.06(3)~~; or

264 (b) Covenant with the governing board of any public agency
265 in this state within which the land is located, or with the
266 Board of Trustees of the Internal Improvement Trust Fund, or
267 with a charitable corporation or trust as described in s.
268 704.06(4) ~~s. 704.06(3)~~, that such land be subject to one or more
269 of the prohibitions or limitations ~~conservation restrictions~~
270 provided in s. 704.06(1) or that not be used by the owner may
271 not use the land for any purpose other than outdoor recreational
272 or park purposes if development rights are conveyed. If land is
273 covenanted and used for an outdoor recreational purpose, the
274 normal use and maintenance of the land for that purpose,
275 consistent with the covenant, shall not be restricted.

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

289 ~~(4)(3)~~ When, ~~pursuant to subsections (1) and (2),~~ the
290 development right in real property has been conveyed to the

593-05682A-09

20092244c2

291 governing board of any public agency of this state, to the Board
292 of Trustees of the Internal Improvement Trust Fund, or to a
293 charitable corporation or trust as described in s. 704.06(3) ~~s.~~
294 ~~704.06(2)~~, or a covenant has been executed and accepted by the
295 board or charitable corporation or trust, the lands which are
296 the subject of such conveyance or covenant shall be thereafter
297 assessed as provided herein:

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

305 (b) If the covenant or conveyance extends for a period less
306 than 10 years, the land shall be assessed under the provisions
307 of s. 193.011, recognizing the nature and length thereof of any
308 restriction placed on the use of the land under the provisions
309 of subsection (1).

310 (5) A person or organization that, on January 1, has the
311 legal title to land that is entitled by law to assessment under
312 this section must, on or before March 1 of each year, file an
313 application for assessment under this section with the county
314 property appraiser. The application must identify the property
315 for which assessment under this section is claimed. The initial
316 application for assessment for any property must include a copy
317 of the instrument by which the development right is conveyed or
318 which establishes a covenant, or the conservation protection
319 agreement or conservation management plan which establishes the

593-05682A-09

20092244c2

320 conservation purposes for which the land is used. The Department
321 of Revenue shall prescribe the forms upon which the application
322 is made. The failure to file an application on or before March 1
323 of any year constitutes a waiver of assessment under this
324 section for that year. However, an applicant who is qualified to
325 receive an assessment under this section, but fails to file an
326 application by March 1, may file an application for the
327 assessment and may file, pursuant to s. 194.011(3), a petition
328 with the value adjustment board requesting that the
329 classification be granted. The petition must be filed at any
330 time during the taxable year on or before the 25th day following
331 the mailing of the notice by the property appraiser pursuant to
332 s. 194.011(1). Notwithstanding s. 194.013, the applicant must
333 pay a nonrefundable fee of \$15 upon filing the petition. Upon
334 reviewing the petition, if the person is qualified to receive
335 the assessment and demonstrates particular extenuating
336 circumstances judged by the property appraiser or the value
337 adjustment board to warrant granting the assessment, the
338 property appraiser or the value adjustment board may grant the
339 assessment. The owner of land that was assessed under this
340 section in the previous year and whose ownership or use has not
341 changed may reapply on a short form as provided by the
342 department. A county may, at the request of the property
343 appraiser and by a majority vote of its governing body, waive
344 the requirement that an annual application or statement be made
345 for assessment of property within the county. Such waiver may be
346 revoked by a majority vote of the governing body of the county.
347 (6) If a conservation management plan extends for a period
348 of at least 10 years following January 1 in the year the plan is

593-05682A-09

20092244c2

349 filed with the appropriate agency and the landowner has provided
350 a current copy of the conservation management plan to the
351 property appraiser along with a signed statement of the
352 landowner's good-faith intention to use the land only for
353 conservation purposes before March 1 of the same year, the
354 property appraiser shall assess the land solely on the basis of
355 character of use.

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

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

364 (c) The commission and the Department of Environmental
365 Protection shall produce a guidance document establishing the
366 form and content of a conservation management plan and
367 establishing minimum standards for such plans regarding
368 restoration and protection of wildlife habitats, plant and
369 animal communities, and natural water features; control of
370 exotic species; use of prescribed fire; removal of diseased and
371 damaged vegetation; and other activities as may be necessary to
372 manage conservation land for the benefit of wildlife, plant and
373 animal communities, and water resources.

374 (d) The property appraiser may require a signed application
375 that includes a statement of the landowner's good faith
376 intention to use the land only for conservation purposes as
377 described in this section, to keep such uses for a period of 10

593-05682A-09

20092244c2

378 years after the date of the application, and, upon failure to
379 carry out the conservation management plan, to pay the
380 difference between the total amount of taxes assessed and the
381 total amount that would have been due in March of the current
382 year and each of the previous 10 years if the land had not been
383 assessed solely on the basis of character or use as provided in
384 this section.

385 (7)-(4) After conveying making a conveyance of the
386 development right or executing a covenant or conservation
387 protection agreement pursuant to this section, or conveying a
388 conservation easement pursuant to this section and s. 704.06,
389 the owner of the land shall not use the land in any manner not
390 consistent with the development right voluntarily conveyed, or
391 with the restrictions voluntarily imposed, or with the terms of
392 the conservation easement or conservation protection agreement,
393 or shall not change the use of the land from outdoor
394 recreational or park purposes during the term of such conveyance
395 or covenant without first obtaining a written instrument from
396 the board or charitable corporation or trust, which must
397 reconvey to the owner instrument reconveys all or part of the
398 development right to the owner or which must release releases
399 the owner from the terms of the covenant. The written instrument
400 must be recorded in the official records of the county in which
401 the property subject to the reconveyance or release is located
402 and which instrument must be promptly recorded in the same
403 manner as any other instrument affecting the title to real
404 property. Upon obtaining approval for reconveyance or release
405 from the board or the charitable organization or trust, the
406 reconveyance or release shall be made to the owner upon payment

593-05682A-09

20092244c2

407 of the deferred tax liability. Any payment of the deferred tax
408 liability shall be payable to the county tax collector within 90
409 days of the date of approval for reconveyance or release ~~by the~~
410 ~~board or charitable corporation or trust of the reconveyance or~~
411 ~~release~~. The collector shall distribute the payment to each
412 governmental unit in the proportion that its millage bears to
413 the total millage levied on the parcel for the years in which
414 such conveyance or covenant was in effect.

415 (8) ~~(5)~~ The governing board of any public agency in this
416 state or the Board of Trustees of the Internal Improvement Trust
417 Fund or a charitable corporation or trust which holds title to a
418 development right pursuant to this section may not convey that
419 development right to anyone other than the governing board of
420 another public agency in this state or a charitable corporation
421 or trust, as described in s. 704.06(4) ~~s. 704.06(3)~~, or the
422 record owner of the fee interest in the land to which the
423 development right attaches. The conveyance from the governing
424 board of a public agency or the Board of Trustees of the
425 Internal Improvement Trust Fund to the owner of the fee shall be
426 made only after a determination by the board that such
427 conveyance would not adversely affect the interest of the
428 public. Section 125.35 does not apply to such sales, but any
429 public agency accepting any instrument conveying a development
430 right pursuant to this section shall forthwith adopt appropriate
431 regulations and procedures governing the disposition of same.
432 These regulations and procedures must provide in part that the
433 board may not convey a development right to the owner of the fee
434 without first holding a public hearing and unless notice of the
435 proposed conveyance and the time and place at which the public

593-05682A-09

20092244c2

436 hearing is to be held is published once a week for at least 2
437 weeks in some newspaper of general circulation in the county in
438 which the property is located before ~~involved prior to~~ the
439 hearing.

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

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

446 ~~(b) "Conservation restriction" means a limitation on a~~
447 ~~right to the use of land for purposes of conserving or~~
448 ~~preserving land or water areas predominantly in their natural,~~
449 ~~scenic, open, agricultural, or wooded condition. The limitation~~
450 ~~on rights to the use of land may involve or pertain to any of~~
451 ~~the activities enumerated in s. 704.06(1).~~

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

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

455 ~~(e) "Deferred tax liability" means an amount equal to the~~
456 ~~difference between the total amount of taxes that would have~~
457 ~~been due in March in each of the previous years in which the~~
458 ~~conveyance or covenant was in effect if the property had been~~
459 ~~assessed under the provisions of s. 193.011 and the total amount~~
460 ~~of taxes actually paid in those years when the property was~~
461 ~~assessed under the provisions of this section, plus interest on~~
462 ~~that difference computed as provided in s. 212.12(3).~~

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

593-05682A-09

20092244c2

465 ~~(g) "Outdoor recreational or park purposes" includes, but~~
466 ~~is not necessarily limited to, boating, golfing, camping,~~
467 ~~swimming, horseback riding, and archaeological, scenic, or~~
468 ~~scientific sites and applies only to land which is open to the~~
469 ~~general public.~~

470 ~~(h) "Present use" is the manner in which the land is~~
471 ~~utilized on January 1 of the year in which the assessment is~~
472 ~~made.~~

473 ~~(i) "Qualified as environmentally endangered" means land~~
474 ~~that has unique ecological characteristics, rare or limited~~
475 ~~combinations of geological formations, or features of a rare or~~
476 ~~limited nature constituting habitat suitable for fish, plants,~~
477 ~~or wildlife, and which, if subject to a development moratorium~~
478 ~~or one or more conservation easements or development~~
479 ~~restrictions appropriate to retaining such land or water areas~~
480 ~~predominantly in their natural state, would be consistent with~~
481 ~~the conservation, recreation and open space, and, if applicable,~~
482 ~~coastal protection elements of the comprehensive plan adopted by~~
483 ~~formal action of the local governing body pursuant to s.~~
484 ~~163.3161, the Local Government Comprehensive Planning and Land~~
485 ~~Development Regulation Act; or surface waters and wetlands, as~~
486 ~~determined by the methodology ratified in s. 373.4211.~~

487 (9) ~~(7)~~ (a) The property appraiser shall report to the
488 department showing the just value and the classified use value
489 of lands used for property that is subject to a conservation
490 purposes pursuant to this section ~~easement under s. 704.06,~~
491 ~~property assessed as environmentally endangered land pursuant to~~
492 ~~this section, and property assessed as outdoor recreational or~~
493 ~~park land.~~

593-05682A-09

20092244c2

494 (b) The tax collector shall annually report to the
495 department the amount of deferred tax liability collected
496 pursuant to this section.

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

499 195.073 Classification of property.—All items required by
500 law to be on the assessment rolls must receive a classification
501 based upon the use of the property. The department shall
502 promulgate uniform definitions for all classifications. The
503 department may designate other subclassifications of property.
504 No assessment roll may be approved by the department which does
505 not show proper classifications.

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

508 (a) Residential, subclassified into categories, one
509 category for homestead property and one for nonhomestead
510 property:

- 511 1. Single family.
- 512 2. Mobile homes.
- 513 3. Multifamily.
- 514 4. Condominiums.
- 515 5. Cooperatives.
- 516 6. Retirement homes.

517 (b) Commercial and industrial.

518 (c) Agricultural.

519 (d) Nonagricultural acreage.

520 (e) High-water recharge.

521 (f) Historic property used for commercial or certain
522 nonprofit purposes.

593-05682A-09

20092244c2

- 523 (g) Exempt, wholly or partially.
524 (h) Centrally assessed.
525 (i) Leasehold interests.
526 (j) Time-share property.
527 (k) Land used for conservation purposes under s. 193.501.
528 (l)~~(k)~~ Other.

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

532 196.011 Annual application required for exemption.—

533 (1)

534 (b) The form to apply for an exemption under s. 196.031, s.
535 196.081, s. 196.091, s. 196.101, 196.1962, or s. 196.202 ~~s.~~
536 ~~196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202~~ must
537 include a space for the applicant to list the social security
538 number of the applicant and of the applicant's spouse, if any.
539 If an applicant files a timely and otherwise complete
540 application, and omits the required social security numbers, the
541 application is incomplete. In that event, the property appraiser
542 shall contact the applicant, who may refile a complete
543 application by April 1. Failure to file a complete application
544 by that date constitutes a waiver of the exemption privilege for
545 that year, except as provided in subsection (7) or subsection
546 (8).

547 (6)(a) Once an original application for tax exemption has
548 been granted, in each succeeding year on or before February 1,
549 the property appraiser shall mail a renewal application to the
550 applicant, and the property appraiser shall accept from each
551 such applicant a renewal application on a form ~~to be~~ prescribed

593-05682A-09

20092244c2

552 by the Department of Revenue. Such renewal application shall be
553 accepted as evidence of exemption by the property appraiser
554 unless he or she denies the application. Upon denial, the
555 property appraiser shall serve, on or before July 1 of each
556 year, a notice setting forth the grounds for denial on the
557 applicant by first-class mail. Any applicant objecting to such
558 denial may file a petition as provided for in s. 194.011(3).

559 (b) Once an original application for the tax exemption has
560 been granted under s. 196.1962, in each succeeding year on or
561 before February 1, the property appraiser shall mail a renewal
562 application to the applicant on a form prescribed by the
563 Department of Revenue. The applicant must certify on the form
564 that the use of the property has not changed. The form shall
565 include a statement that the exemption granted under s. 196.1962
566 will not be renewed unless application is returned to the
567 property appraiser.

568 (9) (a) A county may, at the request of the property
569 appraiser and by a majority vote of its governing body, waive
570 the requirement that an annual application or statement be made
571 for exemption of property within the county after an initial
572 application is made and the exemption granted. The waiver under
573 this subsection of the annual application or statement
574 requirement applies to all exemptions under this chapter except
575 the exemption under s. 196.1995. Notwithstanding such waiver,
576 refiling of an application or statement shall be required when
577 any property granted an exemption is sold or otherwise disposed
578 of, when the ownership changes in any manner, when the applicant
579 for homestead exemption ceases to use the property as his or her
580 homestead, or when the status of the owner changes so as to

593-05682A-09

20092244c2

581 change the exempt status of the property. In its deliberations
582 on whether to waive the annual application or statement
583 requirement, the governing body shall consider the possibility
584 of fraudulent exemption claims which may occur due to the waiver
585 of the annual application requirement. ~~It is~~ The ~~duty of the~~
586 owner of any property granted an exemption who is not required
587 to file an annual application or statement has a duty to notify
588 the property appraiser promptly whenever the use of the property
589 or the status or condition of the owner changes so as to change
590 the exempt status of the property. If any property owner fails
591 to so notify the property appraiser and the property appraiser
592 determines that for any year within the prior 10 years the owner
593 was not entitled to receive such exemption, the owner of the
594 property is subject to the taxes exempted as a result of such
595 failure plus 15 percent interest per annum and a penalty of 50
596 percent of the taxes exempted. Except for homestead exemptions
597 controlled by s. 196.161, ~~it is the duty of~~ the property
598 appraiser making such determination has a duty to record in the
599 public records of the county a notice of tax lien against any
600 property owned by that person or entity in the county, and such
601 property must be identified in the notice of tax lien. Such
602 property is subject to the payment of all taxes and penalties.
603 Such lien when filed shall attach to any property, identified in
604 the notice of tax lien, owned by the person who illegally or
605 improperly received the exemption. Should such person no longer
606 own property in that county, but own property in some other
607 county or counties in the state, ~~it shall be the duty of~~ the
608 property appraiser has a duty to record a notice of tax lien in
609 such other county or counties, identifying the property owned by

593-05682A-09

20092244c2

610 such person or entity in such county or counties, and it shall
611 become a lien against such property in such county or counties.

612 (b) The owner of any property granted an exemption under s.
613 196.1962 has a duty to notify the property appraiser promptly
614 whenever the use of the property changes. If the property owner
615 fails to so notify the property appraiser and the property
616 appraiser determines that for any year within the preceding 10
617 years the owner was not entitled to receive the exemption, the
618 owner of the property is subject to taxes exempted as a result
619 of the failure plus 18 percent interest per annum and a penalty
620 of 100 percent of the taxes exempted. The provisions for tax
621 liens in paragraph (a) apply to property granted an exemption
622 under s. 196.1962.

623 (c)~~(b)~~ A county may, at the request of the property
624 appraiser and by a majority vote of its governing body, waive
625 the requirement that an annual application be made for the
626 veteran's disability discount granted pursuant to s. 6(g), Art.
627 VII of the State Constitution after an initial application is
628 made and the discount granted. ~~It is the duty of~~ The disabled
629 veteran receiving a discount for which annual application has
630 been waived has a duty to notify the property appraiser promptly
631 whenever the use of the property or the percentage of disability
632 to which the veteran is entitled changes. If a disabled veteran
633 fails to notify the property appraiser and the property
634 appraiser determines that for any year within the prior 10 years
635 the veteran was not entitled to receive all or a portion of such
636 discount, the penalties and processes in paragraph (a) relating
637 to the failure to notify the property appraiser of ineligibility
638 for an exemption shall apply.

593-05682A-09

20092244c2

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

642 ~~(e)(d)~~ If an exemption for which the annual application is
643 waived pursuant to this subsection will be denied by the
644 property appraiser in the absence of the refiling of the
645 application, notification of an intent to deny the exemption
646 shall be mailed to the owner of the property prior to February
647 1. If the property appraiser fails to timely mail such notice,
648 the application deadline for such property owner pursuant to
649 subsection (1) shall be extended to 28 days after the date on
650 which the property appraiser mails such notice.

651 Section 5. Section 218.125, Florida Statutes, is created to
652 read:

653 218.125 Replacement for tax loss associated with certain
654 constitutional amendments affecting fiscally constrained
655 counties.-

656 (1) Beginning in the 2009-2010 fiscal year, the Legislature
657 shall appropriate moneys to replace the reductions in ad valorem
658 tax revenue experienced by fiscally constrained counties, as
659 defined in s. 218.67(1), which occur as a direct result of the
660 implementation of revisions of ss. 3(f) and 4(b) of Art. VII of
661 the State Constitution which were approved in the general
662 election held in November 2008. The moneys appropriated for this
663 purpose shall be distributed in January of each fiscal year
664 among the fiscally constrained counties based on each county's
665 proportion of the total reduction in ad valorem tax revenue
666 resulting from the implementation of the revisions.

667 (2) On or before November 15 of each year, beginning in

593-05682A-09

20092244c2

668 2010, each fiscally constrained county shall apply to the
669 Department of Revenue to participate in the distribution of the
670 appropriation and provide documentation supporting the county's
671 estimated reduction in ad valorem tax revenue in the form and
672 manner prescribed by the Department of Revenue. The
673 documentation must include an estimate of the reduction in
674 taxable value directly attributable to revisions of Art. VII of
675 the State Constitution for all county taxing jurisdictions
676 within the county and shall be prepared by the property
677 appraiser in each fiscally constrained county. The documentation
678 must also include the county millage rates applicable in all
679 such jurisdictions for the current year and the prior year,
680 roll-back rates determined as provided in s. 200.065 for each
681 county taxing jurisdiction, and maximum millage rates that could
682 have been levied by majority vote pursuant to s. 200.185. For
683 purposes of this section, each fiscally constrained county's
684 reduction in ad valorem tax revenue shall be calculated as 95
685 percent of the estimated reduction in taxable value times the
686 lesser of the 2009 applicable millage rate or the applicable
687 millage rate for each county taxing jurisdiction in the prior
688 year.

689 Section 6. Section 704.06, Florida Statutes, is amended to
690 read:

691 704.06 Conservation easements and conservation protection
692 agreements; creation; acquisition; enforcement.-

693 (1) As used in this section, "conservation easement" means
694 a transferrable right or interest in real property which may be
695 perpetual or limited to a certain term, and which is appropriate
696 to retaining land or water areas predominantly in their natural,

593-05682A-09

20092244c2

697 scenic, open, agricultural, or wooded condition; retaining such
698 areas as suitable habitat for fish, plants, or wildlife;
699 retaining the structural integrity or physical appearance of
700 sites or properties of historical, architectural,
701 archaeological, or cultural significance; or maintaining
702 existing land uses and which prohibits or limits any or all of
703 the following:

704 (a) Construction or placing of buildings, roads, signs,
705 billboards or other advertising, utilities, or other structures
706 on or above the ground.

707 (b) Dumping or placing of soil or other substance or
708 material as landfill or dumping or placing of trash, waste, or
709 unsightly or offensive materials.

710 (c) Removal or destruction of trees, shrubs, or other
711 vegetation.

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

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

717 (f) Activities detrimental to drainage, flood control,
718 water conservation, erosion control, soil conservation, or fish
719 and wildlife habitat preservation.

720 (g) Acts or uses detrimental to such retention of land or
721 water areas.

722 (h) Acts or uses detrimental to the preservation of the
723 structural integrity or physical appearance of sites or
724 properties of historical, architectural, archaeological, or
725 cultural significance.

593-05682A-09

20092244c2

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

728 (3)~~(2)~~ Conservation easements and conservation protection
729 agreements are ~~perpetual~~, undivided interests in property and
730 may be created or stated in the form of an ~~a restriction,~~
731 ~~easement, covenant, or condition in any deed, will, or other~~
732 instrument executed by or on behalf of the owner of the
733 property, or in any order of taking. Such easements or
734 agreements may be acquired in the same manner as other interests
735 in property are acquired, except by condemnation or by other
736 exercise of the power of eminent domain, and shall not be
737 unassignable to other governmental bodies or agencies,
738 charitable organizations, or trusts authorized to acquire such
739 easements, ~~for lack of benefit to a dominant estate.~~

740 (4)~~(3)~~ Conservation easements and conservation protection
741 agreements may be acquired by any governmental body or agency or
742 by a charitable corporation or trust whose purposes include
743 protecting natural, scenic, or open space values of real
744 property, assuring its availability for agricultural, forest,
745 recreational, or open space use, protecting natural resources,
746 maintaining or enhancing air or water quality, or preserving
747 sites or properties of historical, architectural,
748 archaeological, or cultural significance.

749 (5)~~(4)~~ Conservation easements and conservation protection
750 agreements shall run with the land and be binding on all
751 subsequent owners of the servient estate. Notwithstanding the
752 provisions of s. 197.552, all provisions of a conservation
753 easement or a conservation protection agreement shall survive
754 and are enforceable after the issuance of a tax deed. No

593-05682A-09

20092244c2

755 conservation easement shall be unenforceable on account of lack
756 of privity of contract or lack of benefit to particular land or
757 on account of the benefit being assignable. Conservation
758 easements and conservation protection agreements may be enforced
759 by injunction or proceeding in equity or at law, and shall
760 entitle the holder to enter the land in a reasonable manner and
761 at reasonable times to assure compliance. A conservation
762 easement or a conservation protection agreement may be released
763 by the holder of the easement or the agreement to the holder of
764 the fee even though the holder of the fee may not be a
765 governmental body or a charitable corporation or trust.

766 (6)~~(5)~~ All conservation easements and conservation
767 protection agreements shall be recorded in the official records
768 of the county in which the property subject to the easement or
769 agreement is located ~~and indexed in the same manner as any other~~
770 ~~instrument affecting the title to real property.~~

771 (7)~~(6)~~ The provisions of this section shall not be
772 construed to imply that any restriction, easement, agreement,
773 covenant, or condition which does not have the benefit of this
774 section shall, on account of any provision hereof, be
775 unenforceable.

776 (8)~~(7)~~ Recording of the conservation easement or
777 conservation protection agreement shall be notice to the
778 property appraiser and tax collector of the county of the
779 conveyance of the conservation easement or conservation
780 protection agreement.

781 (9)~~(8)~~ Conservation easements and conservation protection
782 agreements may provide for a third-party right of enforcement.
783 As used in this section, third-party right of enforcement means

593-05682A-09

20092244c2

784 a right provided in a conservation easement or conservation
785 protection agreement to enforce any of its terms granted to a
786 governmental body, or charitable corporation or trust as
787 described in subsection (4) ~~(3)~~, which although eligible to be a
788 holder, is not a holder.

789 ~~(10)(9)~~ An action affecting a conservation easement or a
790 conservation protection agreement may be brought by:

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

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

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

795 (d) A person authorized by another law.

796 ~~(11)(10)~~ The ownership or attempted enforcement of rights
797 held by the holder of an easement or agreement does not subject
798 the holder to any liability for any damage or injury that may be
799 suffered by any person on the property or as a result of the
800 condition of the property encumbered by a conservation easement
801 or a conservation protection agreement.

802 ~~(12)(11)~~ ~~Nothing in~~ This section or other provisions of law
803 do not shall be construed to prohibit or limit the owner of
804 land, or the owner of a conservation easement or conservation
805 protection agreement over land, to voluntarily negotiate the
806 sale or utilization of such lands or easement or agreement for
807 the construction and operation of linear facilities, including
808 electric transmission and distribution facilities,
809 telecommunications transmission and distribution facilities,
810 pipeline transmission and distribution facilities, public
811 transportation corridors, and related appurtenances, nor shall
812 this section prohibit the use of eminent domain for said

593-05682A-09

20092244c2

813 purposes as established by law. In any legal proceeding to
814 condemn land for the purpose of construction and operation of a
815 linear facility as described above, the court shall consider the
816 public benefit provided by the conservation easement or the
817 conservation protection agreement and linear facilities in
818 determining which lands may be taken and the compensation paid.

819 Section 7. The Department of Revenue may adopt emergency
820 rules to administer s. 196.1962, Florida Statutes. The emergency
821 rules shall remain in effect for 6 months after adoption and may
822 be renewed during the pendency of procedures to adopt rules
823 addressing the subject of the emergency rules.

824 Section 8. This act shall take effect July 1, 2009, and
825 applies to property tax assessment made on or after January 1,
826 2010.