

By the Policy and Steering Committee on Ways and Means; the Committees on Finance and Tax; and 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; 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
14 purposes be managed pursuant to certain best-
15 management practices; requiring an owner of land that
16 is exempt from ad valorem taxation to take actions to
17 preserve the perpetual effect of the conservation
18 easement or other instrument; providing that land of
19 less than a certain acreage does not qualify for the
20 ad valorem tax exemption; providing exceptions;
21 requiring the Department of Revenue to adopt rules;
22 requiring the Department of Environmental Protection
23 to adopt by rule a list of nonprofit entities that are
24 qualified to enforce the provisions of a conservation
25 easement or conservation protection agreement;
26 amending s. 193.501, F.S.; defining terms; providing
27 for the assessment of lands used for conservation
28 purposes; requiring that such lands be used for
29 conservation purposes for at least 10 years; requiring

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30 a covenant or conservation protection agreement to be
31 recorded in the official records; providing for the
32 assessment of such land based on character or use;
33 requiring the owner of the land to annually apply to
34 the property appraiser by a certain date for the
35 assessment based on character or use; authorizing the
36 value adjustment board to grant late applications for
37 such assessments if extenuating circumstances are
38 shown; providing for the assessment of land if a
39 conservation management plan extends for a specified
40 period and the landowner has provided certain
41 documentation to the property appraiser; requiring the
42 filing of such plans with the Fish and Wildlife
43 Conservation Commission or a water management district
44 under certain circumstances; requiring that the
45 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

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59 conservation purposes; requiring that a property owner
60 notify the property appraiser when the use of the
61 property no longer complies with the requirements for
62 a conservation easement; providing penalties for
63 failure to notify; creating s. 218.125, F.S.;

64 requiring the Legislature to appropriate moneys to
65 replace the reductions in ad valorem tax revenue
66 experienced by fiscally constrained counties;
67 requiring each fiscally constrained county to apply to
68 the Department of Revenue to participate in the
69 distribution of the appropriation; specifying the
70 documentation that must be provided to the department;
71 providing a formula for calculating the reduction in
72 ad valorem tax revenue; amending s. 704.06, F.S.;

73 revising requirements for conservation easements and
74 conservation protection agreements; authorizing the
75 Department of Revenue to adopt emergency rules;
76 providing for application of the act; providing an
77 effective date.

78
79 Be It Enacted by the Legislature of the State of Florida:

80
81 Section 1. Section 196.1962, Florida Statutes, is created
82 to read:

83 196.1962 Exemption of real property dedicated in perpetuity
84 for conservation purposes.-

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

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88 from ad valorem taxation.

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

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

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

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

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

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

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

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

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117 the provisions of the easement or conservation protection
118 agreement;

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

122 h. Provides that the conservation easement or other
123 conservation protection agreement is perpetual and nonrevocable.

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

125 1. "Conservation easement" has the same meaning as in s.
126 704.06;

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

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

134 (2) Land that qualifies for the exemption provided in this
135 section and whose allowed commercial purposes include
136 agriculture must comply with the most recent best-management
137 practices if adopted by rule by the Department of Agriculture
138 and Consumer Services.

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

145 (4) (a) Notwithstanding subsection (1), real property that

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146 is perpetually encumbered by a conservation easement or other
147 conservation protection agreement and that is less than 40
148 contiguous acres is not entitled to the exemption under this
149 section unless the property:

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

153 2. Contains a unique geological feature;

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

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

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

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

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

173 (6) The Department of Environmental Protection shall adopt
174 by rule a list of nonprofit entities that are qualified to

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175 enforce the provisions of an easement or other conservation
176 protection agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

249 (2) ~~(1)~~ The owner or owners in fee of any land used for
250 conservation ~~subject to a conservation easement as described in~~
251 s. 704.06(1); ~~land qualified as environmentally endangered~~
252 ~~pursuant to paragraph (6) (i) and so designated by formal~~
253 ~~resolution of the governing board of the municipality or county~~
254 ~~within which such land is located; land designated as~~
255 ~~conservation land in a comprehensive plan adopted by the~~
256 ~~appropriate municipal or county governing body; or any land~~
257 ~~which is utilized for outdoor recreational or park purposes may,~~
258 by appropriate instrument, for a term of at least ~~not less than~~
259 10 years:

260 (a) Convey the development right of such land to the
261 governing board of any public agency in this state within which

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262 the land is located, or to the Board of Trustees of the Internal
263 Improvement Trust Fund, or to a charitable corporation or trust
264 as described in s. 704.06(4) ~~s. 704.06(3)~~; or

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

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

290 ~~(4)-(3)~~ When, ~~pursuant to subsections (1) and (2),~~ the

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

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

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

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

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

348 (6) If a conservation management plan extends for a period

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349 of at least 10 years following January 1 in the year the plan is
350 filed with the appropriate agency and the landowner has provided
351 a current copy of the conservation management plan to the
352 property appraiser along with a signed statement of the
353 landowner's good-faith intention to use the land only for
354 conservation purposes before March 1 of the same year, the
355 property appraiser shall assess the land solely on the basis of
356 character of use.

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

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

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

375 (d) The property appraiser may require a signed application
376 that includes a statement of the landowner's good faith
377 intention to use the land only for conservation purposes as

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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494 ~~park land.~~

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

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

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

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

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

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

518 (b) Commercial and industrial.

519 (c) Agricultural.

520 (d) Nonagricultural acreage.

521 (e) High-water recharge.

522 (f) Historic property used for commercial or certain

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523 nonprofit purposes.

524 (g) Exempt, wholly or partially.

525 (h) Centrally assessed.

526 (i) Leasehold interests.

527 (j) Time-share property.

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

529 (l)~~(k)~~ Other.

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

533 196.011 Annual application required for exemption.—

534 (1)

535 (b) The form to apply for an exemption under s. 196.031, s.
536 196.081, s. 196.091, s. 196.101, 196.1962, or s. 196.202 ~~s.~~

537 ~~196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202~~ must

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

539 number of the applicant and of the applicant's spouse, if any.

540 If an applicant files a timely and otherwise complete

541 application, and omits the required social security numbers, the

542 application is incomplete. In that event, the property appraiser

543 shall contact the applicant, who may refile a complete

544 application by April 1. Failure to file a complete application

545 by that date constitutes a waiver of the exemption privilege for

546 that year, except as provided in subsection (7) or subsection

547 (8).

548 (6) (a) Once an original application for tax exemption has

549 been granted, in each succeeding year on or before February 1,

550 the property appraiser shall mail a renewal application to the

551 applicant, and the property appraiser shall accept from each

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

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

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

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

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610 property appraiser has a duty to record a notice of tax lien in
611 such other county or counties, identifying the property owned by
612 such person or entity in such county or counties, and it shall
613 become a lien against such property in such county or counties.

614 (b) The owner of any property granted an exemption under s.
615 196.1962 has a duty to notify the property appraiser promptly
616 whenever the use of the property no longer complies with the
617 restrictions and requirements of the conservation easement. If
618 the property owner fails to so notify the property appraiser and
619 the property appraiser determines that for any year within the
620 preceding 10 years the owner was not entitled to receive the
621 exemption, the owner of the property is subject to taxes
622 exempted as a result of the failure plus 18 percent interest per
623 annum and a penalty of 100 percent of the taxes exempted. The
624 provisions for tax liens in paragraph (a) apply to property
625 granted an exemption under s. 196.1962.

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

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639 discount, the penalties and processes in paragraph (a) relating
640 to the failure to notify the property appraiser of ineligibility
641 for an exemption shall apply.

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

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

654 Section 5. Section 218.125, Florida Statutes, is created to
655 read:

656 218.125 Replacement for tax loss associated with certain
657 constitutional amendments affecting fiscally constrained
658 counties.—

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

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668 proportion of the total reduction in ad valorem tax revenue
669 resulting from the implementation of the revisions.

670 (2) On or before November 15 of each year, beginning in
671 2010, each fiscally constrained county shall apply to the
672 Department of Revenue to participate in the distribution of the
673 appropriation and provide documentation supporting the county's
674 estimated reduction in ad valorem tax revenue in the form and
675 manner prescribed by the Department of Revenue. The
676 documentation must include an estimate of the reduction in
677 taxable value directly attributable to revisions of Art. VII of
678 the State Constitution for all county taxing jurisdictions
679 within the county and shall be prepared by the property
680 appraiser in each fiscally constrained county. The documentation
681 must also include the county millage rates applicable in all
682 such jurisdictions for the current year and the prior year,
683 roll-back rates determined as provided in s. 200.065 for each
684 county taxing jurisdiction, and maximum millage rates that could
685 have been levied by majority vote pursuant to s. 200.185. For
686 purposes of this section, each fiscally constrained county's
687 reduction in ad valorem tax revenue shall be calculated as 95
688 percent of the estimated reduction in taxable value times the
689 lesser of the 2009 applicable millage rate or the applicable
690 millage rate for each county taxing jurisdiction in the prior
691 year.

692 Section 6. Section 704.06, Florida Statutes, is amended to
693 read:

694 704.06 Conservation easements and conservation protection
695 agreements; creation; acquisition; enforcement.-

696 (1) As used in this section, "conservation easement" means

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697 a transferrable right or interest in real property which may be
698 perpetual or limited to a certain term, and which is appropriate
699 to retaining land or water areas predominantly in their natural,
700 scenic, open, agricultural, or wooded condition; retaining such
701 areas as suitable habitat for fish, plants, or wildlife;
702 retaining the structural integrity or physical appearance of
703 sites or properties of historical, architectural,
704 archaeological, or cultural significance; or maintaining
705 existing land uses and which prohibits or limits any or all of
706 the following:

707 (a) Construction or placing of buildings, roads, signs,
708 billboards or other advertising, utilities, or other structures
709 on or above the ground.

710 (b) Dumping or placing of soil or other substance or
711 material as landfill or dumping or placing of trash, waste, or
712 unsightly or offensive materials.

713 (c) Removal or destruction of trees, shrubs, or other
714 vegetation.

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

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

720 (f) Activities detrimental to drainage, flood control,
721 water conservation, erosion control, soil conservation, or fish
722 and wildlife habitat preservation.

723 (g) Acts or uses detrimental to such retention of land or
724 water areas.

725 (h) Acts or uses detrimental to the preservation of the

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726 structural integrity or physical appearance of sites or
727 properties of historical, architectural, archaeological, or
728 cultural significance.

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

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

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

752 (5)~~(4)~~ Conservation easements and conservation protection
753 agreements shall run with the land and be binding on all
754 subsequent owners of the servient estate. Notwithstanding the

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755 provisions of s. 197.552, all provisions of a conservation
756 easement or a conservation protection agreement shall survive
757 and are enforceable after the issuance of a tax deed. No
758 conservation easement shall be unenforceable on account of lack
759 of privity of contract or lack of benefit to particular land or
760 on account of the benefit being assignable. Conservation
761 easements and conservation protection agreements may be enforced
762 by injunction or proceeding in equity or at law, and shall
763 entitle the holder to enter the land in a reasonable manner and
764 at reasonable times to assure compliance. A conservation
765 easement or a conservation protection agreement may be released
766 by the holder of the easement or the agreement to the holder of
767 the fee even though the holder of the fee may not be a
768 governmental body or a charitable corporation or trust.

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

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

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

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784 (9)~~(8)~~ Conservation easements and conservation protection
785 agreements may provide for a third-party right of enforcement.
786 As used in this section, third-party right of enforcement means
787 a right provided in a conservation easement or conservation
788 protection agreement to enforce any of its terms granted to a
789 governmental body, or charitable corporation or trust as
790 described in subsection (4) ~~(3)~~, which although eligible to be a
791 holder, is not a holder.

792 (10)~~(9)~~ An action affecting a conservation easement or a
793 conservation protection agreement may be brought by:

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

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

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

798 (d) A person authorized by another law.

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

805 (12)~~(11)~~ ~~Nothing in~~ This section or other provisions of law
806 do not shall be construed to prohibit or limit the owner of
807 land, or the owner of a conservation easement or conservation
808 protection agreement over land, to voluntarily negotiate the
809 sale or utilization of such lands or easement or agreement for
810 the construction and operation of linear facilities, including
811 electric transmission and distribution facilities,
812 telecommunications transmission and distribution facilities,

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813 pipeline transmission and distribution facilities, public
814 transportation corridors, and related appurtenances, nor shall
815 this section prohibit the use of eminent domain for said
816 purposes as established by law. In any legal proceeding to
817 condemn land for the purpose of construction and operation of a
818 linear facility as described above, the court shall consider the
819 public benefit provided by the conservation easement or the
820 conservation protection agreement and linear facilities in
821 determining which lands may be taken and the compensation paid.

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

827 Section 8. This act shall take effect July 1, 2009, and
828 applies to property tax assessment made on or after January 1,
829 2010.