

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Bogdanoff offered the following:

2
3 **Amendment to Senate Amendment (963784) (with title**
4 **amendment)**

5 Remove line(s) 5-797 and insert:

6 Section 1. Section 196.26, Florida Statutes, is created to
7 read:

8 196.26 Exemption for real property dedicated in perpetuity
9 for conservation purposes.--

10 (1) As used in this section:

11 (a) "Allowed commercial uses" means commercial uses that
12 are allowed by the conservation easement encumbering the land
13 exempt from taxation under this section.

14 (b) "Conservation easement" means the property right
15 described in s. 704.06.

16 (c) "Conservation purposes" means:

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17 1. Serving a conservation purpose, as defined in 26 U.S.C.
18 s. 170(h)(4)(A)(i)-(iii), for land which serves as the basis of
19 a qualified conservation contribution under 26 U.S.C. s. 170(h);
20 or

21 2.a. Retention of the substantial natural value of land,
22 including woodlands, wetlands, water courses, ponds, streams,
23 and natural open spaces;

24 b. Retention of such lands as suitable habitat for fish,
25 plants, or wildlife; or

26 c. Retention of such lands' natural value for water
27 quality enhancement or water recharge.

28 (d) "Dedicated in perpetuity" means that the land is
29 encumbered by an irrevocable, perpetual conservation easement.

30 (2) Land that is dedicated in perpetuity for conservation
31 purposes and that is used exclusively for conservation purposes
32 is exempt from ad valorem taxation. Such exclusive use does not
33 preclude the receipt of income from activities that are
34 consistent with a management plan when the income is used to
35 implement, maintain, and manage the management plan.

36 (3) Land that is dedicated in perpetuity for conservation
37 purposes and that is used for allowed commercial uses is exempt
38 from ad valorem taxation to the extent of 50 percent of the
39 assessed value of the land.

40 (4) Land that comprises less than 40 contiguous acres does
41 not qualify for the exemption provided in this section unless,
42 in addition to meeting the other requirements of this section,
43 the use of the land for conservation purposes is determined by
44 the Acquisition and Restoration Council created in s. 259.035 to
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45 fulfill a clearly delineated state conservation policy and yield
46 a significant public benefit. In making its determination of
47 public benefit, the Acquisition and Restoration Council must
48 give particular consideration to land that:

49 (a) Contains a natural sinkhole or natural spring that
50 serves a water recharge or production function;

51 (b) Contains a unique geological feature;

52 (c) Provides habitat for endangered or threatened species;

53 (d) Provides nursery habitat for marine and estuarine
54 species;

55 (e) Provides protection or restoration of vulnerable
56 coastal areas;

57 (f) Preserves natural shoreline habitat; or

58 (g) Provides retention of natural open space in otherwise
59 densely built-up areas.

60
61 Any land approved by the Acquisition and Restoration Council
62 under this subsection must have a management plan and a
63 designated manager who will be responsible for implementing the
64 management plan.

65 (5) The conservation easement that serves as the basis for
66 the exemption granted by this section must include baseline
67 documentation as to the natural values to be protected on the
68 land and may include a management plan that details the
69 management of the land so as to effectuate the conservation of
70 natural resources on the land.

71 (6) Buildings, structures, and other improvements situated
72 on land receiving the exemption provided in this section and the

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73 land area immediately surrounding the buildings, structures, and
74 improvements must be assessed separately pursuant to chapter
75 193. However, structures and other improvements that are
76 auxiliary to the use of the land for conservation purposes are
77 exempt to the same extent as the underlying land.

78 (7) Land that qualifies for the exemption provided in this
79 section the allowed commercial uses of which include agriculture
80 must comply with the most recent best management practices if
81 adopted by rule of the Department of Agriculture and Consumer
82 Services.

83 (8) As provided in s. 704.06(8) and (9), water management
84 districts with jurisdiction over lands receiving the exemption
85 provided in this section have a third-party right of enforcement
86 to enforce the terms of the applicable conservation easement for
87 any easement that is not enforceable by a federal or state
88 agency, county, municipality, or water management district when
89 the holder of the easement is unable or unwilling to enforce the
90 terms of the easement.

91 (9) The Acquisition and Restoration Council, created in s.
92 259.035, shall maintain a list of nonprofit entities that are
93 qualified to enforce the provisions of a conservation easement.

94 Section 2. Subsection (1) of section 193.501, Florida
95 Statutes, is amended, and subsections (8) and (9) are added to
96 that section, to read:

97 193.501 Assessment of lands subject to a conservation
98 easement, environmentally endangered lands, or lands used for
99 outdoor recreational or park purposes when land development

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100 rights have been conveyed or conservation restrictions have been
101 covenanted.--

102 (1) The owner or owners in fee of any land subject to a
103 conservation easement as described in s. 704.06~~(1)~~; land
104 qualified as environmentally endangered pursuant to paragraph
105 (6)(i) and so designated by formal resolution of the governing
106 board of the municipality or county within which such land is
107 located; land designated as conservation land in a comprehensive
108 plan adopted by the appropriate municipal or county governing
109 body; or any land which is utilized for outdoor recreational or
110 park purposes may, by appropriate instrument, for a term of not
111 less than 10 years:

112 (a) Convey the development right of such land to the
113 governing board of any public agency in this state within which
114 the land is located, or to the Board of Trustees of the Internal
115 Improvement Trust Fund, or to a charitable corporation or trust
116 as described in s. 704.06(3); or

117 (b) Covenant with the governing board of any public agency
118 in this state within which the land is located, or with the
119 Board of Trustees of the Internal Improvement Trust Fund, or
120 with a charitable corporation or trust as described in s.
121 704.06(3), that such land be subject to one or more of the
122 conservation restrictions provided in s. 704.06(1) or not be
123 used by the owner for any purpose other than outdoor
124 recreational or park purposes. If land is covenanted and used
125 for an outdoor recreational purpose, the normal use and
126 maintenance of the land for that purpose, consistent with the
127 covenant, shall not be restricted.

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128 (8) A person or organization that, on January 1, has the
129 legal title to land that is entitled by law to assessment under
130 this section shall, on or before March 1 of each year, file an
131 application for assessment under this section with the county
132 property appraiser. The application must identify the property
133 for which assessment under this section is claimed. The initial
134 application for assessment for any property must include a copy
135 of the instrument by which the development right is conveyed or
136 which establishes a covenant that establishes the conservation
137 purposes for which the land is used. The Department of Revenue
138 shall prescribe the forms upon which the application is made.
139 The failure to file an application on or before March 1 of any
140 year constitutes a waiver of assessment under this section for
141 that year. However, an applicant who is qualified to receive an
142 assessment under this section but fails to file an application
143 by March 1 may file an application for the assessment and may
144 file, pursuant to s. 194.011(3), a petition with the value
145 adjustment board requesting that the assessment be granted. The
146 petition must be filed at any time during the taxable year on or
147 before the 25th day following the mailing of the notice by the
148 property appraiser pursuant to s. 194.011(1). Notwithstanding s.
149 194.013, the applicant must pay a nonrefundable fee of \$15 upon
150 filing the petition. Upon reviewing the petition, if the person
151 is qualified to receive the assessment and demonstrates
152 particular extenuating circumstances judged by the property
153 appraiser or the value adjustment board to warrant granting the
154 assessment, the property appraiser or the value adjustment board
155 may grant the assessment. The owner of land that was assessed

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156 under this section in the previous year and whose ownership or
157 use has not changed may reapply on a short form as provided by
158 the department. A county may, at the request of the property
159 appraiser and by a majority vote of its governing body, waive
160 the requirement that an annual application or statement be made
161 for assessment of property within the county. Such waiver may be
162 revoked by a majority vote of the governing body of the county.

163 (9) A person or entity that owns land assessed pursuant to
164 this section must notify the property appraiser promptly if the
165 land becomes ineligible for assessment under this section. If
166 any property owner fails to notify the property appraiser and
167 the property appraiser determines that for any year within the
168 preceding 10 years the land was not eligible for assessment
169 under this section, the owner of the land is subject to taxes
170 avoided as a result of such failure plus 15 percent interest per
171 annum and a penalty of 50 percent of the taxes avoided. The
172 property appraiser making such determination shall record in the
173 public records of the county a notice of tax lien against any
174 property owned by that person or entity in the county, and such
175 property must be identified in the notice of tax lien. The
176 property is subject to a lien in the amount of the unpaid taxes
177 and penalties. The lien when filed shall attach to any property
178 identified in the notice of tax lien which is owned by the
179 person or entity and which was improperly assessed. If such
180 person or entity no longer owns property in that county but owns
181 property in some other county or counties of this state, the
182 property appraiser shall record a notice of tax lien in such
183 other county or counties, identifying the property owned by such

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184 person or entity.

185 Section 3. Subsection (12) is added to section 704.06,
186 Florida Statutes, to read:

187 704.06 Conservation easements; creation; acquisition;
188 enforcement.--

189 (12) An owner of property encumbered by a conservation
190 easement must abide by the requirements of chapter 712 or any
191 other similar law or rule to preserve the conservation easement
192 in perpetuity.

193 Section 4. Subsection (1) of section 195.073, Florida
194 Statutes, is amended to read:

195 195.073 Classification of property.--All items required by
196 law to be on the assessment rolls must receive a classification
197 based upon the use of the property. The department shall
198 promulgate uniform definitions for all classifications. The
199 department may designate other subclassifications of property.
200 No assessment roll may be approved by the department which does
201 not show proper classifications.

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

204 (a) Residential, subclassified into categories, one
205 category for homestead property and one for nonhomestead
206 property:

- 207 1. Single family.
- 208 2. Mobile homes.
- 209 3. Multifamily.
- 210 4. Condominiums.
- 211 5. Cooperatives.

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- 212 6. Retirement homes.
213 (b) Commercial and industrial.
214 (c) Agricultural.
215 (d) Nonagricultural acreage.
216 (e) High-water recharge.
217 (f) Historic property used for commercial or certain
218 nonprofit purposes.
219 (g) Exempt, wholly or partially.
220 (h) Centrally assessed.
221 (i) Leasehold interests.
222 (j) Time-share property.
223 (k) Land assessed under s. 193.501.
224 (l) ~~(k)~~ Other.

225 Section 5. Subsections (6) and (9) of section 196.011,
226 Florida Statutes, are amended to read:

227 196.011 Annual application required for exemption.--

228 (6) (a) Once an original application for tax exemption has
229 been granted, in each succeeding year on or before February 1,
230 the property appraiser shall mail a renewal application to the
231 applicant, and the property appraiser shall accept from each
232 such applicant a renewal application on a form ~~to be~~ prescribed
233 by the Department of Revenue. Such renewal application shall be
234 accepted as evidence of exemption by the property appraiser
235 unless he or she denies the application. Upon denial, the
236 property appraiser shall serve, on or before July 1 of each
237 year, a notice setting forth the grounds for denial on the
238 applicant by first-class mail. Any applicant objecting to such
239 denial may file a petition as provided for in s. 194.011(3).

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240 (b) Once an original application for tax exemption has
241 been granted under s. 196.26, in each succeeding year on or
242 before February 1, the property appraiser shall mail a renewal
243 application to the applicant on a form prescribed by the
244 Department of Revenue. The applicant must certify on the form
245 that the use of the property complies with the restrictions and
246 requirements of the conservation easement. The form shall
247 include a statement that the exemption granted under s. 196.26
248 will not be renewed unless the application is returned to the
249 property appraiser.

250 (9) (a) A county may, at the request of the property
251 appraiser and by a majority vote of its governing body, waive
252 the requirement that an annual application or statement be made
253 for exemption of property within the county after an initial
254 application is made and the exemption granted. The waiver under
255 this subsection of the annual application or statement
256 requirement applies to all exemptions under this chapter except
257 the exemption under s. 196.1995. Notwithstanding such waiver,
258 refiling of an application or statement shall be required when
259 any property granted an exemption is sold or otherwise disposed
260 of, when the ownership changes in any manner, when the applicant
261 for homestead exemption ceases to use the property as his or her
262 homestead, or when the status of the owner changes so as to
263 change the exempt status of the property. In its deliberations
264 on whether to waive the annual application or statement
265 requirement, the governing body shall consider the possibility
266 of fraudulent exemption claims which may occur due to the waiver
267 of the annual application requirement. ~~It is the duty of The~~

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268 owner of any property granted an exemption who is not required
269 to file an annual application or statement shall ~~to~~ notify the
270 property appraiser promptly whenever the use of the property or
271 the status or condition of the owner changes so as to change the
272 exempt status of the property. If any property owner fails to so
273 notify the property appraiser and the property appraiser
274 determines that for any year within the prior 10 years the owner
275 was not entitled to receive such exemption, the owner of the
276 property is subject to the taxes exempted as a result of such
277 failure plus 15 percent interest per annum and a penalty of 50
278 percent of the taxes exempted. Except for homestead exemptions
279 controlled by s. 196.161, ~~it is the duty of~~ the property
280 appraiser making such determination shall ~~to~~ record in the
281 public records of the county a notice of tax lien against any
282 property owned by that person or entity in the county, and such
283 property must be identified in the notice of tax lien. Such
284 property is subject to the payment of all taxes and penalties.
285 Such lien when filed shall attach to any property, identified in
286 the notice of tax lien, owned by the person who illegally or
287 improperly received the exemption. If ~~Should~~ such person no
288 longer owns ~~own~~ property in that county, but owns ~~own~~ property
289 in some other county or counties in the state, ~~it shall be the~~
290 ~~duty of~~ the property appraiser shall ~~to~~ record a notice of tax
291 lien in such other county or counties, identifying the property
292 owned by such person or entity in such county or counties, and
293 it shall become a lien against such property in such county or
294 counties.

295 (b) The owner of any property granted an exemption under

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296 s. 196.26 shall notify the property appraiser promptly whenever
297 the use of the property no longer complies with the restrictions
298 and requirements of the conservation easement. If the property
299 owner fails to so notify the property appraiser and the property
300 appraiser determines that for any year within the preceding 10
301 years the owner was not entitled to receive the exemption, the
302 owner of the property is subject to taxes exempted as a result
303 of the failure plus 18 percent interest per annum and a penalty
304 of 100 percent of the taxes exempted. The provisions for tax
305 liens in paragraph (a) apply to property granted an exemption
306 under s. 196.26.

307 (c) ~~(b)~~ A county may, at the request of the property
308 appraiser and by a majority vote of its governing body, waive
309 the requirement that an annual application be made for the
310 veteran's disability discount granted pursuant to s. 6(g), Art.
311 VII of the State Constitution after an initial application is
312 made and the discount granted. ~~It is the duty of~~ The disabled
313 veteran receiving a discount for which annual application has
314 been waived shall ~~to~~ notify the property appraiser promptly
315 whenever the use of the property or the percentage of disability
316 to which the veteran is entitled changes. If a disabled veteran
317 fails to notify the property appraiser and the property
318 appraiser determines that for any year within the prior 10 years
319 the veteran was not entitled to receive all or a portion of such
320 discount, the penalties and processes in paragraph (a) relating
321 to the failure to notify the property appraiser of ineligibility
322 for an exemption shall apply.

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

326 (e)~~(d)~~ If an exemption for which the annual application is
327 waived pursuant to this subsection will be denied by the
328 property appraiser in the absence of the refiling of the
329 application, notification of an intent to deny the exemption
330 shall be mailed to the owner of the property prior to February
331 1. If the property appraiser fails to timely mail such notice,
332 the application deadline for such property owner pursuant to
333 subsection (1) shall be extended to 28 days after the date on
334 which the property appraiser mails such notice.

335 Section 6. Paragraph (c) of subsection (2) of section
336 192.0105, Florida Statutes, is amended to read:

337 192.0105 Taxpayer rights.--There is created a Florida
338 Taxpayer's Bill of Rights for property taxes and assessments to
339 guarantee that the rights, privacy, and property of the
340 taxpayers of this state are adequately safeguarded and protected
341 during tax levy, assessment, collection, and enforcement
342 processes administered under the revenue laws of this state. The
343 Taxpayer's Bill of Rights compiles, in one document, brief but
344 comprehensive statements that summarize the rights and
345 obligations of the property appraisers, tax collectors, clerks
346 of the court, local governing boards, the Department of Revenue,
347 and taxpayers. Additional rights afforded to payors of taxes and
348 assessments imposed under the revenue laws of this state are
349 provided in s. 213.015. The rights afforded taxpayers to assure
350 that their privacy and property are safeguarded and protected

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351 during tax levy, assessment, and collection are available only
352 insofar as they are implemented in other parts of the Florida
353 Statutes or rules of the Department of Revenue. The rights so
354 guaranteed to state taxpayers in the Florida Statutes and the
355 departmental rules include:

356 (2) THE RIGHT TO DUE PROCESS.--

357 (c) The right to file a petition for exemption or
358 agricultural classification with the value adjustment board when
359 an application deadline is missed, upon demonstration of
360 particular extenuating circumstances for filing late (see ss.
361 193.461(3)(a) and 196.011(1), (7), (8), and (9) (e) ~~(d)~~).

362 Section 7. Section 218.125, Florida Statutes, is created
363 to read:

364 218.125 Offset for tax loss associated with certain
365 constitutional amendments affecting fiscally constrained
366 counties.--

367 (1) Beginning in the 2010-2011 fiscal year, the
368 Legislature shall appropriate moneys to offset the reductions in
369 ad valorem tax revenue experienced by fiscally constrained
370 counties, as defined in s. 218.67(1), which occur as a direct
371 result of the implementation of revisions of ss. 3(f) and 4(b)
372 of Art. VII of the State Constitution which were approved in the
373 general election held in November 2008. The moneys appropriated
374 for this purpose shall be distributed in January of each fiscal
375 year among the fiscally constrained counties based on each
376 county's proportion of the total reduction in ad valorem tax
377 revenue resulting from the implementation of the revisions.

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

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379 2010, each fiscally constrained county shall apply to the
380 Department of Revenue to participate in the distribution of the
381 appropriation and provide documentation supporting the county's
382 estimated reduction in ad valorem tax revenue in the form and
383 manner prescribed by the Department of Revenue. The
384 documentation must include an estimate of the reduction in
385 taxable value directly attributable to revisions of Art. VII of
386 the State Constitution for all county taxing jurisdictions
387 within the county and shall be prepared by the property
388 appraiser in each fiscally constrained county. The documentation
389 must also include the county millage rates applicable in all
390 such jurisdictions for the current year and the prior year,
391 rolled-back rates determined as provided in s. 200.065 for each
392 county taxing jurisdiction, and maximum millage rates that could
393 have been levied by majority vote pursuant to s. 200.185. For
394 purposes of this section, each fiscally constrained county's
395 reduction in ad valorem tax revenue shall be calculated as 95
396 percent of the estimated reduction in taxable value multiplied
397 by the lesser of the 2010 applicable millage rate or the
398 applicable millage rate for each county taxing jurisdiction in
399 the prior year.

400 Section 8. The Department of Revenue may adopt emergency
401 rules to administer s. 196.26, Florida Statutes, as created by
402 this act. The emergency rules shall remain in effect for 6
403 months after adoption and may be renewed during the pendency of
404 procedures to adopt rules addressing the subject of the
405 emergency rules.

406 Section 9. This act shall take effect upon becoming a law
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407 and shall apply to property tax assessments made on or after
408 January 1, 2010.

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T I T L E A M E N D M E N T

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Remove line(s) 804-889 and insert:

416

An act relating to real property used for conservation purposes;
417 creating s. 196.26, F.S.; providing definitions; providing for a
418 full exemption for land dedicated in perpetuity and used
419 exclusively for conservation purposes; providing a partial ad
420 valorem tax exemption for conservation land that is used for
421 commercial purposes; permitting land smaller than a certain size
422 to qualify for the exemption upon approval by the Acquisition
423 and Restoration Council; requiring the Acquisition and
424 Restoration Council to consider whether the property will yield
425 a significant public benefit; specifying criteria; requiring
426 approved lands to have a management plan; specifying baseline
427 documentation required for certain conservation easements;
428 providing for the assessment of buildings and structures on
429 exempted lands; exempting certain structures and improvements
430 from certain assessments; requiring best management practices to
431 be used for certain agricultural lands; providing for third-
432 party conservation easement enforcement rights to water
433 management districts under certain circumstances; requiring the
434 Acquisition and Restoration Council to maintain a list of
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435 certain enforcement entities; amending s. 193.501, F.S.;

436 revising a cross-reference; requiring the owner of the land to

437 annually apply to the property appraiser by a certain date for

438 the assessment based on character or use; authorizing the

439 property appraiser or value adjustment board to grant late

440 applications for such assessments if extenuating circumstances

441 are shown; providing application requirements; providing for a

442 nonrefundable fee; providing for waiver of the annual filing

443 requirement under certain circumstances; requiring a landowner

444 to notify the property appraiser if the land becomes ineligible

445 for the assessment benefit; imposing penalties for nonpayment of

446 ad valorem taxes after a loss of eligibility for the assessment

447 benefit; directing the property appraiser to record a notice of

448 tax lien; amending s. 704.06, F.S.; requiring owners of property

449 encumbered by a conservation easement to comply with marketable

450 record title requirements to preserve the easement in

451 perpetuity; amending s. 195.073, F.S.; specifying an additional

452 real property assessment classification; amending s. 196.011,

453 F.S.; providing requirements and procedures for renewal

454 applications for exemptions for real property dedicated in

455 perpetuity for conservation purposes; requiring owners of such

456 property to notify the property appraiser when use of the

457 property no longer qualifies for the exemption; providing

458 penalties for failure to notify; providing for application of

459 certain lien provisions; amending s. 192.0105, F.S.; conforming

460 a cross-reference; creating s. 218.125, F.S.; requiring the

461 Legislature to appropriate moneys to offset the reductions in ad

462 valorem tax revenue experienced by fiscally constrained

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HOUSE AMENDMENT

Bill No. HB 7157

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463 counties; requiring each fiscally constrained county to apply to
464 the Department of Revenue to participate in the distribution of
465 the appropriation; specifying the documentation that must be
466 provided to the department; providing a formula for calculating
467 the reduction in ad valorem tax revenue; authorizing the
468 department to adopt emergency rules effective for a specified
469 period; providing for renewal of such rules; providing
470 applicability; providing an effective date.

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