



963784

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SEN1/C
04/29/2009 02:53 PM	.	05/01/2009 12:43 PM
	.	

Senator Altman moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(1) As used in this section, the term:

(a) "Allowed commercial uses" means commercial uses that
are allowed by the conservation easement or other conservation
protection agreement encumbering land that is exempt from



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13 taxation under this section.

14 (b) "Conservation easement" has the same meaning as in s.
15 704.06.

16 (c) "Conservation protection agreement" means a deed
17 restriction, land use agreement, or covenant running with the
18 land which dedicates the property for conservation purposes.

19 (d) "Conservation purposes" means:

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

24 2.a. Retention of the substantial natural value of land,
25 including woodlands, wetlands, water courses, ponds, streams,
26 and natural open spaces;

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

29 c. Retention of such lands' natural value for water quality
30 enhancement or water recharge.

31 (2) Pursuant to s. 3(f), Art. VII of the State
32 Constitution, land that is dedicated in perpetuity for the
33 conservation purposes specified in this section is totally or
34 partially exempt from ad valorem taxation.

35 (a) Land qualifying for the exemption must be perpetually
36 encumbered by a valid and enforceable conservation easement or
37 other conservation protection agreement that:

38 1. Includes baseline documentation as to the natural values
39 to be protected on the land and may include a management plan
40 that details the management of the land so as to effectuate the
41 conservation of natural resources on the land;



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42 2. Is enforceable by a federal or state agency, county,
43 municipality, water management district, or nonprofit entity
44 that is qualified to enforce the provisions of the easement or
45 other conservation protection agreement;

46 3. Allows for periodic review by any enforcing entity of
47 the provisions of the easement or conservation protection
48 agreement;

49 4. Provides for the perpetual enforcement of the provisions
50 of the easement or conservation protection agreement against any
51 present or future owner of the land; and

52 5. Provides that the conservation easement or other
53 conservation protection agreement is perpetual and nonrevocable.

54 (b) Land that is dedicated in perpetuity for conservation
55 purposes and that is used exclusively for conservation purposes
56 is exempt from ad valorem taxation. Such use of the land does
57 not preclude the generation of income, if such income is
58 generated incidental to the implementation of a management plan.

59 (c) Land that is dedicated in perpetuity for conservation
60 purposes and that is used for allowed commercial uses is exempt
61 from ad valorem taxation to the extent of 50 percent of the
62 assessed value of the land.

63 (3) Land that comprises less than 40 contiguous acres does
64 not qualify for the exemption provided in this section unless,
65 in addition to meeting the other requirements of this section,
66 the use of the land for conservation purposes is determined by
67 the Acquisition and Restoration Council created in s. 259.035 to
68 fulfill a clearly delineated state conservation policy and yield
69 a public benefit. In making its determination of public benefit,
70 the Acquisition and Restoration Council must give particular



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71 consideration to land that:

72 (a) Contains a natural sinkhole or natural spring that
73 serves a water recharge or production function;

74 (b) Contains a unique geological feature;

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

76 (d) Provides nursery habitat for marine and estuarine
77 species;

78 (e) Provides protection or restoration of vulnerable
79 coastal resources;

80 (f) Preserves natural shoreline habitat; or

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

83
84 Any land approved by the Acquisition and Restoration Council
85 under this subsection must have a designated manager who will
86 maintain or restore natural water features and courses, remove
87 and prevent reestablishment of nonnative exotic species, remove
88 diseased vegetation, and use prescribed fire if appropriate for
89 the location and type of land.

90 (4) Land that qualifies for the exemption provided in this
91 section, the allowed commercial uses of which include
92 agriculture, must comply with the most recent best-management
93 practices if adopted by rule of the Department of Agriculture
94 and Consumer Services.

95 (5) As provided in s. 704.06(8) and (9), water management
96 districts having jurisdiction over lands receiving the exemption
97 provided in this section have a third-party right of enforcement
98 to enforce the terms of the applicable conservation easement or
99 other conservation protection agreement for any easement or



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100 agreement that is not enforceable by a federal or state agency,
101 county, or municipality.

102 (6) Buildings, structures, and other improvements situated
103 on land receiving the exemption provided in this section and the
104 land area immediately surrounding the buildings, structures, and
105 improvements must be assessed separately pursuant to chapter
106 193.

107 (7) An owner of land that is exempt from ad valorem
108 taxation pursuant to this section shall abide by the
109 requirements of the Florida Marketable Record Title Act, chapter
110 712, or any other similar law or rule to preserve the effect of
111 the qualifying conservation easement or other conservation
112 protection agreement in perpetuity.

113 (8) The Acquisition and Restoration Council, created in s.
114 259.035, shall maintain a list of nonprofit entities that are
115 qualified under subparagraph (2) (a)2. to enforce the provisions
116 of an easement or other conservation protection agreement.

117 Section 2. Section 193.501, Florida Statutes, is amended to
118 read:

119 193.501 Assessment of lands used for conservation purposes
120 ~~subject to a conservation easement, environmentally endangered~~
121 ~~lands, or lands used for outdoor recreational or park purposes~~
122 ~~when land development rights have been conveyed or conservation~~
123 ~~restrictions have been covenanted.-~~

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

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

127 1. Lands designated as environmentally endangered lands by
128 a formal resolution of the governing body of the local



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129 government within whose jurisdictional boundaries the land is
130 located;

131 2. Lands designated as conservation lands in a local
132 comprehensive plan adopted by the appropriate local governing
133 body pursuant to chapter 163;

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

136 4. Lands used for the conservation purpose specified in s.
137 196.1962 when a conservation easement or a conservation
138 protection agreement has been executed pursuant to s. 704.06; or

139 5. Lands for which a conservation management plan has been
140 filed with the Fish and Wildlife Conservation Commission or a
141 water management district and for which the activities and
142 actions are being carried out according the conservation
143 management plan.

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

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

149 (d) "Conservation protection agreement" has the same
150 meaning as provided in s. 196.1962.

151 (e) "Covenant" means a covenant running with the land.

152 (f) "Deferred tax liability" means an amount equal to the
153 difference between the total amount of taxes that would have
154 been due in March in each of the previous years in which the
155 conveyance or covenant was in effect if the property had been
156 assessed under the provisions of s. 193.011 and the total amount
157 of taxes actually paid in those years if the property was



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158 assessed as provided in this section, plus interest on that
159 difference. The interest accrues at the rate of 1 percent per
160 month beginning on the 21st day of the month following the month
161 in which the full amount of tax based on an assessment pursuant
162 to s. 193.011 would have been due.

163 (g) "Development right" means the right of the owner of the
164 fee interest in the land to change the use of the land.

165 (h) "Outdoor recreational or park purposes" includes, but
166 is not limited to, boating, golfing, camping, swimming,
167 horseback riding, and archaeological, scenic, or scientific
168 sites. The term applies only to activities on land that is open
169 to the general public.

170 (i) "Qualified as environmentally endangered" means:

171 1. Land that has unique ecological characteristics, rare or
172 limited combinations of geological formations, or features of a
173 rare or limited nature constituting habitat suitable for fish,
174 plants, or wildlife, and which, if subject to a development
175 moratorium or one or more conservation easements or development
176 restrictions appropriate to retaining such land or water areas
177 predominantly in their natural state, would be consistent with
178 the conservation, recreation, and open space and, if applicable,
179 coastal protection elements of the comprehensive plan adopted by
180 formal action of the local governing body pursuant to s.

181 163.3161, the Local Government Comprehensive Planning and Land
182 Development Regulation Act; or

183 2. Surface waters and wetlands as determined by the
184 methodology ratified by s. 373.4211.

185 (j) "Conservation management plan" means a document filed
186 with the Fish and Wildlife Conservation Commission or a water



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187 management district which specifies actions and activities to be
188 undertaken on an annual basis for a period of at least 10 years
189 to manage land for the benefit of native wildlife and habitat,
190 native plant and animal communities, and natural water features;
191 precludes development; and limits other nonrecreational uses to
192 those that are essential to the uses of the property for
193 conservation purposes.

194 (2)~~(1)~~ The owner or owners in fee of any land used for
195 conservation ~~subject to a conservation easement as described in~~
196 ~~s. 704.06(1); land qualified as environmentally endangered~~
197 ~~pursuant to paragraph (6) (i) and so designated by formal~~
198 ~~resolution of the governing board of the municipality or county~~
199 ~~within which such land is located; land designated as~~
200 ~~conservation land in a comprehensive plan adopted by the~~
201 ~~appropriate municipal or county governing body; or any land~~
202 ~~which is utilized for outdoor recreational or park purposes may,~~
203 ~~by appropriate instrument, for a term of at least ~~not less than~~~~
204 ~~10 years:~~

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

210 (b) Covenant with the governing board of any public agency
211 in this state within which the land is located, or with the
212 Board of Trustees of the Internal Improvement Trust Fund, or
213 with a charitable corporation or trust as described in s.
214 704.06(4) ~~s. 704.06(3)~~, that such land be subject to one or more
215 of the prohibitions or limitations ~~conservation restrictions~~



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216 provided in s. 704.06(1) or that not be used by the owner may
217 not use the land for any purpose other than outdoor recreational
218 or park purposes if development rights are conveyed. If land is
219 covenanted and used for an outdoor recreational purpose, the
220 normal use and maintenance of the land for that purpose,
221 consistent with the covenant, shall not be restricted.

222 ~~(3)(2)~~ The governing board of any public agency in this
223 state, or the Board of Trustees of the Internal Improvement
224 Trust Fund, or a charitable corporation or trust as described in
225 s. 704.06(4) ~~s. 704.06(3)~~, is authorized and empowered in its
226 discretion to accept any and all instruments that convey
227 ~~conveying~~ the development right of any such land or establish
228 ~~establishing~~ a covenant for a term of at least 10 years.
229 ~~pursuant to subsection (1), and~~ If accepted by the board or
230 charitable corporation or trust, the instrument shall be
231 promptly recorded in the official public records of the county
232 in which the land is located ~~filed with the appropriate officer~~
233 ~~for recording in the same manner as any other instrument~~
234 ~~affecting the title to real property.~~

235 ~~(4)(3)~~ When, ~~pursuant to subsections (1) and (2),~~ the
236 development right in real property has been conveyed to the
237 governing board of any public agency of this state, to the Board
238 of Trustees of the Internal Improvement Trust Fund, or to a
239 charitable corporation or trust as described in s. 704.06(3) ~~s.~~
240 ~~704.06(2)~~, or a covenant has been executed and accepted by the
241 board or charitable corporation or trust, the lands which are
242 the subject of such conveyance or covenant shall be thereafter
243 assessed as provided herein:

244 (a) If the covenant or conveyance extends for a period of



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245 at least not less than 10 years following from January 1 in the
246 year such assessment is made, the property appraiser, ~~in valuing~~
247 ~~such land for tax purposes,~~ shall assess the land solely on the
248 basis of character or use ~~consider no factors other than those~~
249 ~~relative to its value for the present use, as restricted by any~~
250 ~~conveyance or covenant under this section.~~

251 (b) If the covenant or conveyance extends for a period less
252 than 10 years, the land shall be assessed under the provisions
253 of s. 193.011, recognizing the nature and length thereof of any
254 restriction placed on the use of the land under the provisions
255 of subsection (1).

256 (5) If a conservation management plan extends for a period
257 of at least 10 years following January 1 in the year the plan is
258 filed with the appropriate agency, if the plan limits other
259 nonrecreational uses to those essential to uses of the land for
260 conservation purposes, and if the landowner has provided a
261 current copy of the conservation management plan to the property
262 appraiser along with a signed statement of the landowner's good
263 faith intention to use the land only for conservation purposes
264 before March 1 of the same year, the property appraiser shall
265 assess the land solely on the basis of character or use.

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

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



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274 (c) The commission and the Department of Environmental
275 Protection shall produce a guidance document establishing the
276 form and content of a conservation management plan and
277 establishing minimum standards for such plans regarding
278 restoration and protection of wildlife habitats, plant and
279 animal communities, and natural water features; control of
280 exotic species; use of prescribed fire; removal of diseased and
281 damaged vegetation; and other activities as may be necessary to
282 manage conservation land for the benefit of wildlife, plant and
283 animal communities, and water resources.

284 (d) The property appraiser may require a signed application
285 that includes a statement of the landowner's good faith
286 intention to use the land only for conservation purposes as
287 described in this section, to keep such uses for a period of 10
288 years after the date of the application, and, upon failure to
289 carry out the conservation management plan, to pay the
290 difference between the total amount of taxes assessed and the
291 total amount that would have been due in March of the current
292 year and each of the previous 10 years if the land had not been
293 assessed solely on the basis of character or use as provided in
294 this section.

295 (6) A person or organization that, on January 1, has the
296 legal title to land that is entitled by law to assessment under
297 this section must, on or before March 1 of each year, file an
298 application for assessment under this section with the county
299 property appraiser. The application must identify the property
300 for which assessment under this section is claimed. The initial
301 application for assessment for any property must include a copy
302 of the instrument by which the development right is conveyed or



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



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332 ~~(7)-(4)~~ After conveying ~~making a conveyance~~ of the
333 development right or executing a covenant or conservation
334 protection agreement pursuant to this section, or conveying a
335 conservation easement pursuant to this section and s. 704.06,
336 the owner of the land shall not use the land in any manner not
337 consistent with the development right voluntarily conveyed, or
338 with the restrictions voluntarily imposed, or with the terms of
339 the conservation easement or conservation protection agreement,
340 or shall not change the use of the land from outdoor
341 recreational or park purposes during the term of such conveyance
342 or covenant without first obtaining a written instrument from
343 the board or charitable corporation or trust, which must
344 reconvey to the owner ~~instrument reconveys~~ all or part of the
345 development right ~~to the owner~~ or which must release ~~releases~~
346 the owner from the terms of the covenant. The written instrument
347 must be recorded in the official records of the county in which
348 the property subject to the reconveyance or release is located
349 ~~and which instrument must be promptly recorded in the same~~
350 ~~manner as any other instrument affecting the title to real~~
351 ~~property.~~ Upon obtaining approval for reconveyance or release
352 from the board or the charitable organization or trust, the
353 reconveyance or release shall be made to the owner upon payment
354 of the deferred tax liability. Any payment of the deferred tax
355 liability shall be payable to the county tax collector within 90
356 days after ~~of~~ the date of approval for reconveyance or release
357 ~~by the board or charitable corporation or trust of the~~
358 ~~reconveyance or release.~~ The collector shall distribute the
359 payment to each governmental unit in the proportion that its
360 millage bears to the total millage levied on the parcel for the



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361 years in which such conveyance or covenant was in effect.

362 ~~(8)~~⁽⁵⁾ The governing board of any public agency in this
363 state or the Board of Trustees of the Internal Improvement Trust
364 Fund or a charitable corporation or trust which holds title to a
365 development right pursuant to this section may not convey that
366 development right to anyone other than the governing board of
367 another public agency in this state or a charitable corporation
368 or trust, as described in s. 704.06(4) ~~s. 704.06(3)~~, or the
369 record owner of the fee interest in the land to which the
370 development right attaches. The conveyance from the governing
371 board of a public agency or the Board of Trustees of the
372 Internal Improvement Trust Fund to the owner of the fee shall be
373 made only after a determination by the board that such
374 conveyance would not adversely affect the interest of the
375 public. Section 125.35 does not apply to such sales, but any
376 public agency accepting any instrument conveying a development
377 right pursuant to this section shall forthwith adopt appropriate
378 regulations and procedures governing the disposition of same.
379 These regulations and procedures must provide in part that the
380 board may not convey a development right to the owner of the fee
381 without first holding a public hearing and unless notice of the
382 proposed conveyance and the time and place at which the public
383 hearing is to be held is published once a week for at least 2
384 weeks in some newspaper of general circulation in the county in
385 which the property is located before ~~involved prior to the~~
386 hearing.

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



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

393 ~~(b) "Conservation restriction" means a limitation on a~~
394 ~~right to the use of land for purposes of conserving or~~
395 ~~preserving land or water areas predominantly in their natural,~~
396 ~~scenic, open, agricultural, or wooded condition. The limitation~~
397 ~~on rights to the use of land may involve or pertain to any of~~
398 ~~the activities enumerated in s. 704.06(1).~~

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

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

402 ~~(e) "Deferred tax liability" means an amount equal to the~~
403 ~~difference between the total amount of taxes that would have~~
404 ~~been due in March in each of the previous years in which the~~
405 ~~conveyance or covenant was in effect if the property had been~~
406 ~~assessed under the provisions of s. 193.011 and the total amount~~
407 ~~of taxes actually paid in those years when the property was~~
408 ~~assessed under the provisions of this section, plus interest on~~
409 ~~that difference computed as provided in s. 212.12(3).~~

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

412 ~~(g) "Outdoor recreational or park purposes" includes, but~~
413 ~~is not necessarily limited to, boating, golfing, camping,~~
414 ~~swimming, horseback riding, and archaeological, scenic, or~~
415 ~~scientific sites and applies only to land which is open to the~~
416 ~~general public.~~

417 ~~(h) "Present use" is the manner in which the land is~~
418 ~~utilized on January 1 of the year in which the assessment is~~



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419 made.

420 ~~(i) "Qualified as environmentally endangered" means land~~
421 ~~that has unique ecological characteristics, rare or limited~~
422 ~~combinations of geological formations, or features of a rare or~~
423 ~~limited nature constituting habitat suitable for fish, plants,~~
424 ~~or wildlife, and which, if subject to a development moratorium~~
425 ~~or one or more conservation easements or development~~
426 ~~restrictions appropriate to retaining such land or water areas~~
427 ~~predominantly in their natural state, would be consistent with~~
428 ~~the conservation, recreation and open space, and, if applicable,~~
429 ~~coastal protection elements of the comprehensive plan adopted by~~
430 ~~formal action of the local governing body pursuant to s.~~
431 ~~163.3161, the Local Government Comprehensive Planning and Land~~
432 ~~Development Regulation Act; or surface waters and wetlands, as~~
433 ~~determined by the methodology ratified in s. 373.4211.~~

434 (9) A person or entity that owns land assessed pursuant to
435 this section must notify the property appraiser promptly if the
436 land becomes ineligible for assessment under this section. If
437 any property owner fails to so notify the property appraiser and
438 the property appraiser determines that for any year within the
439 preceding 10 years the land was not eligible for assessment
440 under this section, the owner of the land is subject to taxes
441 avoided as a result of such failure plus 15 percent interest per
442 annum and a penalty of 50 percent of the taxes avoided. The
443 property appraiser making such determination has a duty to
444 record in the public records of the county a notice of tax lien
445 against any property owned by that person or entity in the
446 county, and such property must be identified in the notice of
447 tax lien. The property is subject to a lien in the amount of the



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448 unpaid taxes and penalties. The lien when filed shall attach to
449 any property identified in the notice of tax lien which is owned
450 by the person or entity and which was improperly assessed. If
451 such person or entity no longer owns property in that county,
452 but owns property in some other county or counties of this
453 state, the property appraiser has a duty to record a notice of
454 tax lien in such other county or counties, identifying the
455 property owned by such person or entity.

456 ~~(10)-(7)~~(a) The property appraiser shall report to the
457 department showing the just value and the classified use value
458 of lands used for property that is subject to a conservation
459 purposes pursuant to this section ~~easement under s. 704.06,~~
460 ~~property assessed as environmentally endangered land pursuant to~~
461 ~~this section, and property assessed as outdoor recreational or~~
462 ~~park land.~~

463 (b) The tax collector shall annually report to the
464 department the amount of deferred tax liability collected
465 pursuant to this section.

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

468 195.073 Classification of property.—All items required by
469 law to be on the assessment rolls must receive a classification
470 based upon the use of the property. The department shall
471 promulgate uniform definitions for all classifications. The
472 department may designate other subclassifications of property.
473 No assessment roll may be approved by the department which does
474 not show proper classifications.

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



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477 (a) Residential, subclassified into categories, one
478 category for homestead property and one for nonhomestead
479 property:
480 1. Single family.
481 2. Mobile homes.
482 3. Multifamily.
483 4. Condominiums.
484 5. Cooperatives.
485 6. Retirement homes.
486 (b) Commercial and industrial.
487 (c) Agricultural.
488 (d) Nonagricultural acreage.
489 (e) High-water recharge.
490 (f) Historic property used for commercial or certain
491 nonprofit purposes.
492 (g) Exempt, wholly or partially.
493 (h) Centrally assessed.
494 (i) Leasehold interests.
495 (j) Time-share property.
496 (k) Land used for conservation purposes under s. 193.501.
497 (l)~~(k)~~ Other.
498 Section 4. Paragraph (b) of subsection (1) and subsections
499 (6) and (9) of section 196.011, Florida Statutes, are amended to
500 read:
501 196.011 Annual application required for exemption.-
502 (1)
503 (b) The form to apply for an exemption under s. 196.031, s.
504 196.081, s. 196.091, s. 196.101, 196.1962, or s. 196.202 ~~s.~~
505 ~~196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202~~ must



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506 include a space for the applicant to list the social security
507 number of the applicant and of the applicant's spouse, if any.
508 If an applicant files a timely and otherwise complete
509 application, and omits the required social security numbers, the
510 application is incomplete. In that event, the property appraiser
511 shall contact the applicant, who may refile a complete
512 application by April 1. Failure to file a complete application
513 by that date constitutes a waiver of the exemption privilege for
514 that year, except as provided in subsection (7) or subsection
515 (8).

516 (6) (a) Once an original application for tax exemption has
517 been granted, in each succeeding year on or before February 1,
518 the property appraiser shall mail a renewal application to the
519 applicant, and the property appraiser shall accept from each
520 such applicant a renewal application on a form ~~to be~~ prescribed
521 by the Department of Revenue. Such renewal application shall be
522 accepted as evidence of exemption by the property appraiser
523 unless he or she denies the application. Upon denial, the
524 property appraiser shall serve, on or before July 1 of each
525 year, a notice setting forth the grounds for denial on the
526 applicant by first-class mail. Any applicant objecting to such
527 denial may file a petition as provided for in s. 194.011(3).

528 (b) Once an original application for the tax exemption has
529 been granted under s. 196.1962, in each succeeding year on or
530 before February 1, the property appraiser shall mail a renewal
531 application to the applicant on a form prescribed by the
532 Department of Revenue. The applicant must certify on the form
533 that the use of the property complies with the restrictions and
534 requirements of the conservation easement. The form shall



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535 include a statement that the exemption granted under s. 196.1962
536 will not be renewed unless application is returned to the
537 property appraiser.

538 (9) (a) A county may, at the request of the property
539 appraiser and by a majority vote of its governing body, waive
540 the requirement that an annual application or statement be made
541 for exemption of property within the county after an initial
542 application is made and the exemption granted. The waiver under
543 this subsection of the annual application or statement
544 requirement applies to all exemptions under this chapter except
545 the exemption under s. 196.1995. Notwithstanding such waiver,
546 refiling of an application or statement shall be required when
547 any property granted an exemption is sold or otherwise disposed
548 of, when the ownership changes in any manner, when the applicant
549 for homestead exemption ceases to use the property as his or her
550 homestead, or when the status of the owner changes so as to
551 change the exempt status of the property. In its deliberations
552 on whether to waive the annual application or statement
553 requirement, the governing body shall consider the possibility
554 of fraudulent exemption claims which may occur due to the waiver
555 of the annual application requirement. ~~It is~~ The ~~duty of the~~
556 owner of any property granted an exemption who is not required
557 to file an annual application or statement has a duty to notify
558 the property appraiser promptly whenever the use of the property
559 or the status or condition of the owner changes so as to change
560 the exempt status of the property. If any property owner fails
561 to so notify the property appraiser and the property appraiser
562 determines that for any year within the prior 10 years the owner
563 was not entitled to receive such exemption, the owner of the



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564 property is subject to the taxes exempted as a result of such
565 failure plus 15 percent interest per annum and a penalty of 50
566 percent of the taxes exempted. Except for homestead exemptions
567 controlled by s. 196.161, ~~it is the duty of the property~~
568 appraiser making such determination has a duty to record in the
569 public records of the county a notice of tax lien against any
570 property owned by that person or entity in the county, and such
571 property must be identified in the notice of tax lien. Such
572 property is subject to the payment of all taxes and penalties.
573 Such lien when filed shall attach to any property, identified in
574 the notice of tax lien, owned by the person who illegally or
575 improperly received the exemption. Should such person no longer
576 own property in that county, but own property in some other
577 county or counties in the state, ~~it shall be the duty of the~~
578 property appraiser has a duty to record a notice of tax lien in
579 such other county or counties, identifying the property owned by
580 such person or entity in such county or counties, and it shall
581 become a lien against such property in such county or counties.

582 (b) The owner of any land granted an exemption under s.
583 196.1962 has a duty to notify the property appraiser promptly
584 whenever the use of the land no longer complies with the
585 restrictions and requirements of the conservation easement. If
586 the property owner fails to so notify the property appraiser and
587 the property appraiser determines that for any year within the
588 preceding 10 years the owner was not entitled to receive the
589 exemption, the owner of the land is subject to taxes exempted as
590 a result of the failure plus 18 percent interest per annum and a
591 penalty of 100 percent of the taxes exempted. The provisions for
592 tax liens in paragraph (a) apply to land granted an exemption



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593 under s. 196.1962.

594 (c)~~(b)~~ A county may, at the request of the property
595 appraiser and by a majority vote of its governing body, waive
596 the requirement that an annual application be made for the
597 veteran's disability discount granted pursuant to s. 6(g), Art.
598 VII of the State Constitution after an initial application is
599 made and the discount granted. ~~It is the duty of~~ The disabled
600 veteran receiving a discount for which annual application has
601 been waived has a duty to notify the property appraiser promptly
602 whenever the use of the property or the percentage of disability
603 to which the veteran is entitled changes. If a disabled veteran
604 fails to notify the property appraiser and the property
605 appraiser determines that for any year within the prior 10 years
606 the veteran was not entitled to receive all or a portion of such
607 discount, the penalties and processes in paragraph (a) relating
608 to the failure to notify the property appraiser of ineligibility
609 for an exemption shall apply.

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

613 (e)~~(d)~~ If an exemption for which the annual application is
614 waived pursuant to this subsection will be denied by the
615 property appraiser in the absence of the refiling of the
616 application, notification of an intent to deny the exemption
617 shall be mailed to the owner of the property prior to February
618 1. If the property appraiser fails to timely mail such notice,
619 the application deadline for such property owner pursuant to
620 subsection (1) shall be extended to 28 days after the date on
621 which the property appraiser mails such notice.



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622 Section 5. Section 218.125, Florida Statutes, is created to
623 read:

624 218.125 Offset for tax loss associated with certain
625 constitutional amendments affecting fiscally constrained
626 counties.-

627 (1) Beginning in the 2010-2011 fiscal year, the Legislature
628 shall appropriate moneys to offset the reductions in ad valorem
629 tax revenue experienced by fiscally constrained counties, as
630 defined in s. 218.67(1), which occur as a direct result of the
631 implementation of revisions of ss. 3(f) and 4(b) of Art. VII of
632 the State Constitution which were approved in the general
633 election held in November 2008. The moneys appropriated for this
634 purpose shall be distributed in January of each fiscal year
635 among the fiscally constrained counties based on each county's
636 proportion of the total reduction in ad valorem tax revenue
637 resulting from the implementation of the revisions.

638 (2) On or before November 15 of each year, beginning in
639 2010, each fiscally constrained county shall apply to the
640 Department of Revenue to participate in the distribution of the
641 appropriation and provide documentation supporting the county's
642 estimated reduction in ad valorem tax revenue in the form and
643 manner prescribed by the Department of Revenue. The
644 documentation must include an estimate of the reduction in
645 taxable value directly attributable to revisions of Art. VII of
646 the State Constitution for all county taxing jurisdictions
647 within the county and shall be prepared by the property
648 appraiser in each fiscally constrained county. The documentation
649 must also include the county millage rates applicable in all
650 such jurisdictions for the current year and the prior year,



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651 roll-back rates determined as provided in s. 200.065 for each
652 county taxing jurisdiction, and maximum millage rates that could
653 have been levied by majority vote pursuant to s. 200.185. For
654 purposes of this section, each fiscally constrained county's
655 reduction in ad valorem tax revenue shall be calculated as 95
656 percent of the estimated reduction in taxable value times the
657 lesser of the 2009 applicable millage rate or the applicable
658 millage rate for each county taxing jurisdiction in the prior
659 year.

660 Section 6. Section 704.06, Florida Statutes, is amended to
661 read:

662 704.06 Conservation easements and conservation protection
663 agreements; creation; acquisition; enforcement.-

664 (1) As used in this section, "conservation easement" means
665 a transferrable right or interest in real property which may be
666 perpetual or limited to a certain term, and which is appropriate
667 to retaining land or water areas predominantly in their natural,
668 scenic, open, agricultural, or wooded condition; retaining such
669 areas as suitable habitat for fish, plants, or wildlife;
670 retaining the structural integrity or physical appearance of
671 sites or properties of historical, architectural,
672 archaeological, or cultural significance; or maintaining
673 existing land uses and which prohibits or limits any or all of
674 the following:

675 (a) Construction or placing of buildings, roads, signs,
676 billboards or other advertising, utilities, or other structures
677 on or above the ground.

678 (b) Dumping or placing of soil or other substance or
679 material as landfill or dumping or placing of trash, waste, or



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680 unsightly or offensive materials.

681 (c) Removal or destruction of trees, shrubs, or other
682 vegetation.

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

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

688 (f) Activities detrimental to drainage, flood control,
689 water conservation, erosion control, soil conservation, or fish
690 and wildlife habitat preservation.

691 (g) Acts or uses detrimental to such retention of land or
692 water areas.

693 (h) Acts or uses detrimental to the preservation of the
694 structural integrity or physical appearance of sites or
695 properties of historical, architectural, archaeological, or
696 cultural significance.

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

699 (3) ~~(2)~~ Conservation easements and conservation protection
700 agreements are perpetual, undivided interests in property and
701 may be created or stated in the form of an a restriction,
702 easement, covenant, or condition in any deed, will, or other
703 instrument executed by or on behalf of the owner of the
704 property, or in any order of taking. Such easements or
705 agreements may be acquired in the same manner as other interests
706 in property are acquired, except by condemnation or by other
707 exercise of the power of eminent domain, and shall not be
708 unassignable to other governmental bodies or agencies,



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709 charitable organizations, or trusts authorized to acquire such
710 easements, ~~for lack of benefit to a dominant estate.~~

711 (4)~~(3)~~ Conservation easements and conservation protection
712 agreements may be acquired by any governmental body or agency or
713 by a charitable corporation or trust whose purposes include
714 protecting natural, scenic, or open space values of real
715 property, assuring its availability for agricultural, forest,
716 recreational, or open space use, protecting natural resources,
717 maintaining or enhancing air or water quality, or preserving
718 sites or properties of historical, architectural,
719 archaeological, or cultural significance.

720 (5)~~(4)~~ Conservation easements and conservation protection
721 agreements shall run with the land and be binding on all
722 subsequent owners of the servient estate. Notwithstanding the
723 provisions of s. 197.552, all provisions of a conservation
724 easement or a conservation protection agreement shall survive
725 and are enforceable after the issuance of a tax deed. No
726 conservation easement shall be unenforceable on account of lack
727 of privity of contract or lack of benefit to particular land or
728 on account of the benefit being assignable. Conservation
729 easements and conservation protection agreements may be enforced
730 by injunction or proceeding in equity or at law, and shall
731 entitle the holder to enter the land in a reasonable manner and
732 at reasonable times to assure compliance. A conservation
733 easement or a conservation protection agreement may be released
734 by the holder of the easement or the agreement to the holder of
735 the fee even though the holder of the fee may not be a
736 governmental body or a charitable corporation or trust.

737 (6)~~(5)~~ All conservation easements and conservation



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738 protection agreements shall be recorded in the official records
739 of the county in which the property subject to the easement or
740 agreement is located and ~~indexed in the same manner as any other~~
741 ~~instrument affecting the title to real property.~~

742 ~~(7)(6)~~ The provisions of this section shall not be
743 construed to imply that any restriction, easement, agreement,
744 covenant, or condition which does not have the benefit of this
745 section shall, on account of any provision hereof, be
746 unenforceable.

747 ~~(8)(7)~~ Recording of the conservation easement or
748 conservation protection agreement shall be notice to the
749 property appraiser and tax collector of the county of the
750 conveyance of the conservation easement or conservation
751 protection agreement.

752 ~~(9)(8)~~ Conservation easements and conservation protection
753 agreements may provide for a third-party right of enforcement.
754 As used in this section, third-party right of enforcement means
755 a right provided in a conservation easement or conservation
756 protection agreement to enforce any of its terms granted to a
757 governmental body, or charitable corporation or trust as
758 described in subsection ~~(4) (3)~~, which although eligible to be a
759 holder, is not a holder.

760 ~~(10)(9)~~ An action affecting a conservation easement or a
761 conservation protection agreement may be brought by:

- 762 (a) An owner of an interest in the real property burdened
763 by the easement or agreement;
- 764 (b) A holder of the easement or agreement;
- 765 (c) A person having a third-party right of enforcement; or
- 766 (d) A person authorized by another law.



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767 ~~(11)(10)~~ The ownership or attempted enforcement of rights
768 held by the holder of an easement or agreement does not subject
769 the holder to any liability for any damage or injury that may be
770 suffered by any person on the property or as a result of the
771 condition of the property encumbered by a conservation easement
772 or a conservation protection agreement.

773 ~~(12)(11)~~ ~~Nothing in~~ This section or other provisions of law
774 do not shall be construed to prohibit or limit the owner of
775 land, or the owner of a conservation easement or conservation
776 protection agreement over land, to voluntarily negotiate the
777 sale or utilization of such lands or easement or agreement for
778 the construction and operation of linear facilities, including
779 electric transmission and distribution facilities,
780 telecommunications transmission and distribution facilities,
781 pipeline transmission and distribution facilities, public
782 transportation corridors, and related appurtenances, nor shall
783 this section prohibit the use of eminent domain for said
784 purposes as established by law. In any legal proceeding to
785 condemn land for the purpose of construction and operation of a
786 linear facility as described above, the court shall consider the
787 public benefit provided by the conservation easement or the
788 conservation protection agreement and linear facilities in
789 determining which lands may be taken and the compensation paid.

790 Section 7. The Department of Revenue may adopt emergency
791 rules to administer s. 196.1962, Florida Statutes. The emergency
792 rules shall remain in effect for 6 months after adoption and may
793 be renewed during the pendency of procedures to adopt rules
794 addressing the subject of the emergency rules.

795 Section 8. This act shall take effect July 1, 2009, and



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796 applies to property tax assessments made on or after January 1,
797 2010.

798
799 ===== T I T L E A M E N D M E N T =====

800 And the title is amended as follows:

801 Delete everything before the enacting clause
802 and insert:

803 A bill to be entitled
804 An act relating to land used for conservation
805 purposes; creating s. 196.1962, F.S.; defining terms;
806 providing a total or partial ad valorem tax exemption
807 for land used for conservation purposes; requiring
808 that such land be perpetually encumbered by a
809 conservation easement or conservation protection
810 agreement; providing a partial ad valorem tax
811 exemption for conservation land that is used for
812 commercial purposes; permitting land smaller than a
813 certain size to qualify for the exemption upon
814 approval by the Acquisition and Restoration Council;
815 requiring the Acquisition and Restoration Council to
816 consider whether the property will yield a significant
817 public benefit; requiring land that qualifies for the
818 exemption from ad valorem taxation and used for
819 agricultural purposes be managed pursuant to certain
820 best-management practices; providing that water
821 management districts have a third-party right of
822 enforcement to enforce certain conservation easements
823 or conservation protection agreements; providing for
824 the assessment of certain buildings, structures,



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825 improvements, and land; requiring an owner of land
826 that is exempt from ad valorem taxation to take
827 actions to preserve the perpetual effect of the
828 conservation easement or other instrument; requiring
829 the Acquisition and Restoration Council to maintain a
830 list of nonprofit entities that are qualified to
831 enforce the provisions of a conservation easement or
832 conservation protection agreement; amending s.
833 193.501, F.S.; defining terms; providing for the
834 assessment of lands used for conservation purposes;
835 requiring that such lands be used for conservation
836 purposes for at least 10 years; requiring a covenant
837 or conservation protection agreement to be recorded in
838 the official records; providing for the assessment of
839 such land based on character or use; requiring the
840 owner of the land to annually apply to the property
841 appraiser by a certain date for the assessment based
842 on character or use; authorizing the value adjustment
843 board to grant late applications for such assessments
844 if extenuating circumstances are shown; providing for
845 the assessment of land if a conservation management
846 plan extends for a specified period and the landowner
847 has provided certain documentation to the property
848 appraiser; requiring the filing of such plans with the
849 Fish and Wildlife Conservation Commission or a water
850 management district under certain circumstances;
851 requiring that the commission and the Department of
852 Environmental Protection produce a guidance document
853 establishing the form and content of a conservation



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854 management plan and establishing certain minimum
855 standards for such plans; authorizing a property
856 appraiser to require a signed application that
857 includes certain statements by a landowner; requiring
858 a landowner to notify the property appraiser if the
859 land becomes ineligible for the assessment benefit;
860 imposing penalties for nonpayment of ad valorem taxes
861 after a loss of eligibility for the assessment
862 benefit; directing the property appraiser to record a
863 notice of tax lien; requiring property appraisers to
864 issue a report relating to the just value and
865 classified use value of land used for conservation
866 purposes; amending s. 195.073, F.S.; providing for the
867 classification of lands used for conservation purposes
868 for the purposes of ad valorem taxation; amending s.
869 196.011, F.S.; conforming a cross-reference; requiring
870 an annual application for the exemption for land used
871 for conservation purposes; requiring that a property
872 owner notify the property appraiser when the use of
873 the property no longer complies with the requirements
874 for a conservation easement; providing penalties for
875 failure to notify; creating s. 218.125, F.S.;
876 requiring the Legislature to appropriate moneys to
877 offset the reductions in ad valorem tax revenue
878 experienced by fiscally constrained counties;
879 requiring each fiscally constrained county to apply to
880 the Department of Revenue to participate in the
881 distribution of the appropriation; specifying the
882 documentation that must be provided to the department;



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883 providing a formula for calculating the reduction in
884 ad valorem tax revenue; amending s. 704.06, F.S.;
885 revising requirements for conservation easements and
886 conservation protection agreements; authorizing the
887 Department of Revenue to adopt emergency rules;
888 providing for application of the act; providing an
889 effective date.