A bill to be entitled

An act relating to real property used for conservation purposes; creating s. 196.26, F.S.; providing definitions; providing for a full or partial exemption for land dedicated in perpetuity for conservation purposes; providing circumstances under which land consisting of less than 40 acres qualifies for such exemption; providing for the assessment of buildings and structures on exempted lands; requiring best management practices to be used for certain agricultural lands; providing for third-party conservation easement enforcement rights to affected governments; creating the Board of Conservation for certain purposes; providing for appointment of members; amending s. 193.501, F.S.; revising a cross-reference; amending s. 704.06, F.S.; requiring owners of property encumbered by a conservation easement to comply with marketable record title requirements to preserve the easement in perpetuity; amending s. 195.073, F.S.; specifying an additional real property assessment classification; amending s. 196.011, F.S.; providing requirements and procedures for renewal applications for exemptions for real property dedicated in perpetuity for conservation purposes; requiring owners of such property to notify the property appraiser when use of the property no longer qualifies for the exemption; providing penalties for failure to notify; providing for application of certain lien provisions; amending s. 192.0105, F.S.; conforming a cross-reference; creating s. 218.125, F.S.;

requiring the Legislature to appropriate moneys to replace the reductions in ad valorem tax revenue experienced by fiscally constrained counties with a population not exceeding 25,000; requiring each fiscally constrained county to apply to the Department of Revenue to participate in the distribution of the appropriation; specifying the documentation that must be provided to the department; providing a formula for calculating the reduction in ad valorem tax revenue; authorizing the department to adopt emergency rules effective for a specified period; providing for renewal of such rules; providing applicability; providing an effective date.

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

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

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

(1) As used in this section:

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

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

(c) "Conservation purposes" means:

1. Retention of the substantial natural value of land, including woodlands, wetlands, water courses, ponds, streams,

and natural open spaces;

2. Retention of such lands as suitable habitat for fish, plants, or wildlife; or

3. Retention of such lands' natural value for water quality enhancement or water recharge.

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

(2) Land that is dedicated in perpetuity for conservation purposes and that is used exclusively for conservation purposes is exempt from ad valorem taxation.

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

(4) Land that comprises less than 40 contiguous acres does not qualify for the exemption provided in this section unless, in addition to meeting the other requirements of this section, the use of the land for conservation purposes is determined by the Board of Conservation to fulfill a clearly delineated state conservation policy and yield a significant public benefit. The determination of whether a significant public benefit exists must include consideration of the fiscal impact the exemption provided in this section will have on affected governments and other taxpayers.

(5) Buildings, structures, and other improvements situated on land receiving the exemption provided in this section and the land area immediately surrounding the buildings, structures, and improvements must be assessed separately pursuant to chapter

193.

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

(7) As provided in s. 704.06(8) and (9), county or municipal governments with jurisdiction over lands receiving the exemption provided in this section have a third-party right of enforcement to enforce the terms of the applicable conservation easement.

(8) The Board of Conservation is created to make the determinations required by subsection (4). The board shall consist of nine members appointed as follows:

(a) The Governor shall appoint one member representing a rural-county government, one member representing a medium-county government, one member representing a large-county government, and two members each representing a nationally recognized organization the purposes of which include the preservation of conservation lands to serve on the board.

(b) The agency heads of the Department of Agriculture, the Department of Environmental Protection, the Department of Community Affairs, and the Fish and Wildlife Conservation Commission shall each appoint one employee to serve on the board.

Section 2. Subsection (1) of section 193.501, Florida Statutes, is amended to read:

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

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

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

(b) Covenant with the governing board of any public agency in this state within which the land is located, or with the Board of Trustees of the Internal Improvement Trust Fund, or with a charitable corporation or trust as described in s. 704.06(3), that such land be subject to one or more of the conservation restrictions provided in s. 704.06(1) or not be used by the owner for any purpose other than outdoor recreational or park purposes. If land is covenanted and used

for an outdoor recreational purpose, the normal use and maintenance of the land for that purpose, consistent with the covenant, shall not be restricted.

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

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

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

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

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

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

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

1. Single family.

2. Mobile homes.

3. Multifamily.

4. Condominiums.

5. Cooperatives.

6. Retirement homes.

(b) Commercial and industrial.

(c) Agricultural.

(d) Nonagricultural acreage.

(e) High-water recharge.

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

(g) Exempt, wholly or partially.

(h) Centrally assessed.

(i) Leasehold interests.

(j) Time-share property.

(k) Land assessed under s. 193.501.

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

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

196.011 Annual application required for exemption.--

(6)(a) Once an original application for tax exemption has been granted, in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant, and the property appraiser shall accept from each such applicant a renewal application on a form ~~to be~~ prescribed by the Department of Revenue. Such renewal application shall be accepted as evidence of exemption by the property appraiser unless he or she denies the application. Upon denial, the property appraiser shall serve, on or before July 1 of each year, a notice setting forth the grounds for denial on the

applicant by first-class mail. Any applicant objecting to such denial may file a petition as provided for in s. 194.011(3).

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

(9)(a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refiling of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement requirement, the governing body shall consider the possibility

of fraudulent exemption claims which may occur due to the waiver of the annual application requirement. ~~It is the duty of~~ The owner of any property granted an exemption who is not required to file an annual application or statement shall ~~to~~ notify the property appraiser promptly whenever the use of the property or the status or condition of the owner changes so as to change the exempt status of the property. If any property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the owner was not entitled to receive such exemption, the owner of the property is subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. Except for homestead exemptions controlled by s. 196.161, ~~it is the duty of~~ the property appraiser making such determination shall ~~to~~ record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property is subject to the payment of all taxes and penalties. Such lien when filed shall attach to any property, identified in the notice of tax lien, owned by the person who illegally or improperly received the exemption. If ~~Should~~ such person no longer owns ~~own~~ property in that county~~,~~ but owns ~~own~~ property in some other county or counties in the state, ~~it shall be the duty of~~ the property appraiser shall ~~to~~ record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity in such county or counties, and

it shall become a lien against such property in such county or counties.

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

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

to the failure to notify the property appraiser of ineligibility for an exemption shall apply.

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

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

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

192.0105 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are

provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(2) THE RIGHT TO DUE PROCESS.--

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

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

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

(1) Beginning in the 2010-2011 fiscal year, the Legislature shall appropriate moneys to replace the reductions in ad valorem tax revenue experienced by fiscally constrained counties, as defined in s. 218.67(1), with a population not greater than 25,000, which occur as a direct result of the implementation of revisions of ss. 3(f) and 4(b), Art. VII of the State Constitution which were approved in the general election held in November 2008. The moneys appropriated for this purpose shall be distributed in January of each fiscal year among the fiscally constrained counties based on each county's

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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

procedures to adopt rules addressing the subject of the emergency rules.

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