

1                   A bill to be entitled  
2           An act relating to real property used for conservation  
3           purposes; creating s. 196.26, F.S.; providing definitions;  
4           providing for a full or partial exemption for land  
5           dedicated in perpetuity for conservation purposes;  
6           exempting certain real property encumbered by a  
7           conservation easement purchased by the federal or state  
8           government or by a local government; providing  
9           circumstances under which land consisting of less than 40  
10          acres qualifies for such exemption; providing for the  
11          assessment of buildings and structures on exempted lands;  
12          requiring best management practices to be used for certain  
13          agricultural lands; providing for third-party conservation  
14          easement enforcement rights to water management districts;  
15          creating the Board of Conservation for certain purposes;  
16          providing for appointment of members; amending s. 193.501,  
17          F.S.; revising a cross-reference; amending s. 704.06,  
18          F.S.; requiring owners of property encumbered by a  
19          conservation easement to comply with marketable record  
20          title requirements to preserve the easement in perpetuity;  
21          amending s. 195.073, F.S.; specifying an additional real  
22          property assessment classification; amending s. 196.011,  
23          F.S.; providing requirements and procedures for renewal  
24          applications for exemptions for real property dedicated in  
25          perpetuity for conservation purposes; requiring owners of  
26          such property to notify the property appraiser when use of  
27          the property no longer qualifies for the exemption;  
28          providing penalties for failure to notify; providing for

29 application of certain lien provisions; amending s.  
 30 192.0105, F.S.; conforming a cross-reference; creating s.  
 31 218.125, F.S.; requiring the Legislature to appropriate  
 32 moneys to replace the reductions in ad valorem tax revenue  
 33 experienced by fiscally constrained counties with a  
 34 population not exceeding 25,000; requiring each fiscally  
 35 constrained county to apply to the Department of Revenue  
 36 to participate in the distribution of the appropriation;  
 37 specifying the documentation that must be provided to the  
 38 department; providing a formula for calculating the  
 39 reduction in ad valorem tax revenue; authorizing the  
 40 department to adopt emergency rules effective for a  
 41 specified period; providing for renewal of such rules;  
 42 providing applicability; providing an effective date.

43  
 44 Be It Enacted by the Legislature of the State of Florida:

45  
 46 Section 1. Section 196.26, Florida Statutes, is created to  
 47 read:

48 196.26 Exemption for real property dedicated in perpetuity  
 49 for conservation purposes.--

50 (1) As used in this section:

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

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

56 (c) "Conservation purposes" means:

57 1. Retention of the substantial natural value of land,  
58 including woodlands, wetlands, water courses, ponds, streams,  
59 and natural open spaces;

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

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

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

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

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

73 (b) Real property that is encumbered by a conservation  
74 easement purchased by the federal or state government or by a  
75 local government before May 1, 2009, is exempt from ad valorem  
76 taxation.

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

85 provided in this section will have on affected governments and  
86 other taxpayers.

87 (5) Buildings, structures, and other improvements situated  
88 on land receiving the exemption provided in this section and the  
89 land area immediately surrounding the buildings, structures, and  
90 improvements must be assessed separately pursuant to chapter  
91 193.

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

97 (7) As provided in s. 704.06(8) and (9), water management  
98 districts with jurisdiction over lands receiving the exemption  
99 provided in this section have a third-party right of enforcement  
100 to enforce the terms of the applicable conservation easement for  
101 any easement that is not enforceable by a federal or state  
102 agency, county, municipality, or water management district.

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

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

112 (b) The agency heads of the Department of Agriculture, the

113 Department of Environmental Protection, the Department of  
 114 Community Affairs, and the Fish and Wildlife Conservation  
 115 Commission shall each appoint one employee to serve on the  
 116 board.

117 (c) After the members have been selected under paragraphs  
 118 (a) and (b), those members shall select two additional members,  
 119 one member who owns not less than 40 nor more than 500 acres of  
 120 land and one member who owns not less than 2,500 acres of land.

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

123 193.501 Assessment of lands subject to a conservation  
 124 easement, environmentally endangered lands, or lands used for  
 125 outdoor recreational or park purposes when land development  
 126 rights have been conveyed or conservation restrictions have been  
 127 covenanted.--

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

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

141 Improvement Trust Fund, or to a charitable corporation or trust  
 142 as described in s. 704.06(3); or

143 (b) Covenant with the governing board of any public agency  
 144 in this state within which the land is located, or with the  
 145 Board of Trustees of the Internal Improvement Trust Fund, or  
 146 with a charitable corporation or trust as described in s.  
 147 704.06(3), that such land be subject to one or more of the  
 148 conservation restrictions provided in s. 704.06(1) or not be  
 149 used by the owner for any purpose other than outdoor  
 150 recreational or park purposes. If land is covenanted and used  
 151 for an outdoor recreational purpose, the normal use and  
 152 maintenance of the land for that purpose, consistent with the  
 153 covenant, shall not be restricted.

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

156 704.06 Conservation easements; creation; acquisition;  
 157 enforcement.--

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

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

164 195.073 Classification of property.--All items required by  
 165 law to be on the assessment rolls must receive a classification  
 166 based upon the use of the property. The department shall  
 167 promulgate uniform definitions for all classifications. The  
 168 department may designate other subclassifications of property.

169 No assessment roll may be approved by the department which does  
 170 not show proper classifications.

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

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

- 176 1. Single family.
- 177 2. Mobile homes.
- 178 3. Multifamily.
- 179 4. Condominiums.
- 180 5. Cooperatives.
- 181 6. Retirement homes.

182 (b) Commercial and industrial.

183 (c) Agricultural.

184 (d) Nonagricultural acreage.

185 (e) High-water recharge.

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

188 (g) Exempt, wholly or partially.

189 (h) Centrally assessed.

190 (i) Leasehold interests.

191 (j) Time-share property.

192 (k) Land assessed under s. 193.501.

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

194 Section 5. Subsections (6) and (9) of section 196.011,

195 Florida Statutes, are amended to read:

196 196.011 Annual application required for exemption.--

197           (6) (a) Once an original application for tax exemption has  
198 been granted, in each succeeding year on or before February 1,  
199 the property appraiser shall mail a renewal application to the  
200 applicant, and the property appraiser shall accept from each  
201 such applicant a renewal application on a form ~~to be~~ prescribed  
202 by the Department of Revenue. Such renewal application shall be  
203 accepted as evidence of exemption by the property appraiser  
204 unless he or she denies the application. Upon denial, the  
205 property appraiser shall serve, on or before July 1 of each  
206 year, a notice setting forth the grounds for denial on the  
207 applicant by first-class mail. Any applicant objecting to such  
208 denial may file a petition as provided for in s. 194.011(3).

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

219           (9) (a) A county may, at the request of the property  
220 appraiser and by a majority vote of its governing body, waive  
221 the requirement that an annual application or statement be made  
222 for exemption of property within the county after an initial  
223 application is made and the exemption granted. The waiver under  
224 this subsection of the annual application or statement



225 requirement applies to all exemptions under this chapter except  
 226 the exemption under s. 196.1995. Notwithstanding such waiver,  
 227 refiling of an application or statement shall be required when  
 228 any property granted an exemption is sold or otherwise disposed  
 229 of, when the ownership changes in any manner, when the applicant  
 230 for homestead exemption ceases to use the property as his or her  
 231 homestead, or when the status of the owner changes so as to  
 232 change the exempt status of the property. In its deliberations  
 233 on whether to waive the annual application or statement  
 234 requirement, the governing body shall consider the possibility  
 235 of fraudulent exemption claims which may occur due to the waiver  
 236 of the annual application requirement. ~~It is the duty of~~ The  
 237 owner of any property granted an exemption who is not required  
 238 to file an annual application or statement shall ~~to~~ notify the  
 239 property appraiser promptly whenever the use of the property or  
 240 the status or condition of the owner changes so as to change the  
 241 exempt status of the property. If any property owner fails to so  
 242 notify the property appraiser and the property appraiser  
 243 determines that for any year within the prior 10 years the owner  
 244 was not entitled to receive such exemption, the owner of the  
 245 property is subject to the taxes exempted as a result of such  
 246 failure plus 15 percent interest per annum and a penalty of 50  
 247 percent of the taxes exempted. Except for homestead exemptions  
 248 controlled by s. 196.161, ~~it is the duty of~~ the property  
 249 appraiser making such determination shall ~~to~~ record in the  
 250 public records of the county a notice of tax lien against any  
 251 property owned by that person or entity in the county, and such  
 252 property must be identified in the notice of tax lien. Such

253 | property is subject to the payment of all taxes and penalties.  
 254 | Such lien when filed shall attach to any property, identified in  
 255 | the notice of tax lien, owned by the person who illegally or  
 256 | improperly received the exemption. ~~If should~~ such person no  
 257 | longer owns ~~own~~ property in that county, but owns ~~own~~ property  
 258 | in some other county or counties in the state, ~~it shall be the~~  
 259 | ~~duty of~~ the property appraiser shall ~~to~~ record a notice of tax  
 260 | lien in such other county or counties, identifying the property  
 261 | owned by such person or entity in such county or counties, and  
 262 | it shall become a lien against such property in such county or  
 263 | counties.

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

276 | (c) ~~(b)~~ A county may, at the request of the property  
 277 | appraiser and by a majority vote of its governing body, waive  
 278 | the requirement that an annual application be made for the  
 279 | veteran's disability discount granted pursuant to s. 6(g), Art.  
 280 | VII of the State Constitution after an initial application is

281 made and the discount granted. ~~It is the duty of~~ The disabled  
 282 veteran receiving a discount for which annual application has  
 283 been waived shall ~~to~~ notify the property appraiser promptly  
 284 whenever the use of the property or the percentage of disability  
 285 to which the veteran is entitled changes. If a disabled veteran  
 286 fails to notify the property appraiser and the property  
 287 appraiser determines that for any year within the prior 10 years  
 288 the veteran was not entitled to receive all or a portion of such  
 289 discount, the penalties and processes in paragraph (a) relating  
 290 to the failure to notify the property appraiser of ineligibility  
 291 for an exemption shall apply.

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

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

304 Section 6. Paragraph (c) of subsection (2) of section  
 305 192.0105, Florida Statutes, is amended to read:

306 192.0105 Taxpayer rights.--There is created a Florida  
 307 Taxpayer's Bill of Rights for property taxes and assessments to  
 308 guarantee that the rights, privacy, and property of the

309 taxpayers of this state are adequately safeguarded and protected  
 310 during tax levy, assessment, collection, and enforcement  
 311 processes administered under the revenue laws of this state. The  
 312 Taxpayer's Bill of Rights compiles, in one document, brief but  
 313 comprehensive statements that summarize the rights and  
 314 obligations of the property appraisers, tax collectors, clerks  
 315 of the court, local governing boards, the Department of Revenue,  
 316 and taxpayers. Additional rights afforded to payors of taxes and  
 317 assessments imposed under the revenue laws of this state are  
 318 provided in s. 213.015. The rights afforded taxpayers to assure  
 319 that their privacy and property are safeguarded and protected  
 320 during tax levy, assessment, and collection are available only  
 321 insofar as they are implemented in other parts of the Florida  
 322 Statutes or rules of the Department of Revenue. The rights so  
 323 guaranteed to state taxpayers in the Florida Statutes and the  
 324 departmental rules include:

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

326 (c) The right to file a petition for exemption or  
 327 agricultural classification with the value adjustment board when  
 328 an application deadline is missed, upon demonstration of  
 329 particular extenuating circumstances for filing late (see ss.  
 330 193.461(3)(a) and 196.011(1), (7), (8), and (9) (e) ~~(d)~~).

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

333 218.125 Replacement for tax loss associated with certain  
 334 constitutional amendments affecting fiscally constrained  
 335 counties.--

336 (1) Beginning in the 2010-2011 fiscal year, the

337 Legislature shall appropriate moneys to replace the reductions  
 338 in ad valorem tax revenue experienced by fiscally constrained  
 339 counties, as defined in s. 218.67(1), with a population not  
 340 greater than 25,000, which occur as a direct result of the  
 341 implementation of revisions of ss. 3(f) and 4(b), Art. VII of  
 342 the State Constitution which were approved in the general  
 343 election held in November 2008. The moneys appropriated for this  
 344 purpose shall be distributed in January of each fiscal year  
 345 among the fiscally constrained counties based on each county's  
 346 proportion of the total reduction in ad valorem tax revenue  
 347 resulting from the implementation of the revisions.

348 (2) On or before November 15 of each year, beginning in  
 349 2010, each fiscally constrained county shall apply to the  
 350 Department of Revenue to participate in the distribution of the  
 351 appropriation and provide documentation supporting the county's  
 352 estimated reduction in ad valorem tax revenue in the form and  
 353 manner prescribed by the Department of Revenue. The  
 354 documentation must include an estimate of the reduction in  
 355 taxable value directly attributable to revisions of Art. VII of  
 356 the State Constitution for all county taxing jurisdictions  
 357 within the county and shall be prepared by the property  
 358 appraiser in each fiscally constrained county. The documentation  
 359 must also include the county millage rates applicable in all  
 360 such jurisdictions for the current year and the prior year,  
 361 rolled-back rates determined as provided in s. 200.065 for each  
 362 county taxing jurisdiction, and maximum millage rates that could  
 363 have been levied by majority vote pursuant to s. 200.185. For  
 364 purposes of this section, each fiscally constrained county's

365 reduction in ad valorem tax revenue shall be calculated as 95  
366 percent of the estimated reduction in taxable value times the  
367 lesser of the 2010 applicable millage rate or the applicable  
368 millage rate for each county taxing jurisdiction in the prior  
369 year.

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

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