

By the Committee on Finance and Tax

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1 A bill to be entitled

2 An act relating to the assessment of lands used for
3 conservation purposes; amending s. 193.501, F.S.;
4 providing for certain lands that are covenanted for
5 use for conservation purposes to be assessed for ad
6 valorem taxation in the same manner as lands used for
7 outdoor recreational or park purposes; redefining the
8 term "covenant"; defining the term "conservation
9 purposes"; specifying the information that must be
10 included in a covenant; requiring covenants to be
11 notarized; requiring the executive director of the
12 Department of Revenue to work with the Board of
13 Trustees of the Internal Improvement Trust Fund, local
14 governments, and conservation organizations to develop
15 a form for a covenant; providing that the requirements
16 for covenants do not apply to covenants in existence
17 before the effective date of the act; providing for
18 retroactive application; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 193.501, Florida Statutes, is amended to
23 read:

24 193.501 Assessment of lands subject to a conservation
25 easement, environmentally endangered lands, or lands used for
26 outdoor recreational, conservation, or park purposes after ~~when~~
27 land development rights have been conveyed or conservation
28 restrictions have been covenanted.—

29 (1) The owner or owners in fee of any land subject to a

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30 conservation easement as described in s. 704.06; land qualified
31 as environmentally endangered pursuant to paragraph (6)(i) and
32 so designated by formal resolution of the governing board of the
33 municipality or county within which such land is located; land
34 designated as conservation land in a comprehensive plan adopted
35 by the appropriate municipal or county governing body; or ~~any~~
36 land that ~~which~~ is used ~~utilized~~ for conservation, outdoor
37 recreational, or park purposes may, by appropriate instrument,
38 for a term of at least ~~not less than~~ 10 years:

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

44 (b) Enter into a covenant as provided in subsection (8)
45 ~~Covenant~~ with the governing board of any public agency in this
46 state within which the land is located, ~~or~~ with the Board of
47 Trustees of the Internal Improvement Trust Fund, or with a
48 charitable corporation or trust as described in s. 704.06(3),
49 that such land be subject to one or more of the conservation
50 restrictions provided in s. 704.06(1) or not be used by the
51 owner for any purpose other than conservation, outdoor
52 recreational, or park purposes. If land is covenanted and used
53 for an outdoor recreational purpose, the normal use and
54 maintenance of the land for that purpose, consistent with the
55 covenant, is ~~shall~~ not be restricted.

56 (2) The governing board of any public agency in this state
57 within which the land is located, ~~or~~ the Board of Trustees of
58 the Internal Improvement Trust Fund, or a charitable corporation

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59 or trust as described in s. 704.06(3), ~~is authorized to and may~~
60 ~~empowered~~ in its discretion ~~to~~ accept any and all instruments
61 conveying the development right of any such land or enter into a
62 covenant restricting the use of such land as provided under
63 subsection (8). ~~establishing a covenant pursuant to subsection~~
64 ~~(1), and if accepted by the board or charitable corporation or~~
65 ~~trust,~~ The covenant or other instrument shall be promptly filed
66 with the appropriate officer for recording in the same manner as
67 any other instrument affecting the title to real property and
68 shall be indexed and maintained in such a manner that allows
69 members of the public to locate the covenant or other instrument
70 affecting any particular property assessed pursuant to this
71 section.

72 (3) ~~After~~ When, ~~pursuant to subsections (1) and (2),~~ the
73 development right in real property has been conveyed, pursuant
74 to subsections (1) and (2), to the governing board of any public
75 agency of this state within which the land is located, to the
76 Board of Trustees of the Internal Improvement Trust Fund, or to
77 a charitable corporation or trust as described in s. 704.06(2),
78 or a covenant has been executed and accepted by the board or
79 charitable corporation or trust, the lands that ~~which~~ are the
80 subject of such conveyance or covenant shall be ~~thereafter~~
81 assessed as provided in this section. ~~herein.~~

82 (a) If the covenant or conveyance extends for a period of
83 at least ~~not less than~~ 10 years from January 1 in the year such
84 assessment is made, the property appraiser, in valuing such land
85 for tax purposes, shall consider no factors other than those
86 relative to its value for the present use, as restricted by any
87 conveyance or covenant under this section.

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88 (b) If the covenant or conveyance extends for a period less
89 than 10 years, the land shall be assessed under ~~the provisions~~
90 ~~of~~ s. 193.011, recognizing the nature and length ~~thereof~~ of any
91 restriction placed on the use of the land under the provisions
92 of subsection (1).

93 (4) After making a conveyance of the development right or
94 executing a covenant pursuant to this section, or conveying a
95 conservation easement pursuant to this section and s. 704.06,
96 the owner of the land may ~~shall~~ not use the land in any manner
97 not consistent with the development right voluntarily conveyed,
98 ~~or~~ with the restrictions voluntarily imposed, or with the terms
99 of the conservation easement, and may ~~or shall~~ not change the
100 use of the land from conservation, outdoor recreational, or park
101 purposes during the term of such conveyance or covenant without
102 first obtaining a written instrument from the board or
103 charitable corporation or trust, which instrument reconveys all
104 or part of the development right to the owner or releases the
105 owner from the terms of the covenant. The ~~and which~~ instrument
106 must be promptly recorded in the same manner as any other
107 instrument affecting the title to real property. Upon obtaining
108 approval for reconveyance or release, the reconveyance or
109 release shall be made to the owner upon payment of the deferred
110 tax liability. Any payment of the deferred tax liability shall
111 be payable to the county tax collector within 90 days after ~~of~~
112 the date of approval by the board or charitable corporation or
113 trust of the reconveyance or release. The collector shall
114 distribute the payment to each governmental unit in the
115 proportion that its millage bears to the total millage levied on
116 the parcel for the years in which such conveyance or covenant

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117 was in effect.

118 (5) The governing board of any public agency, ~~or~~ the Board
119 of Trustees of the Internal Improvement Trust Fund, or a
120 charitable corporation or trust that ~~which~~ holds title to a
121 development right pursuant to this section may not convey that
122 development right to anyone other than the governing board of
123 another public agency or a charitable corporation or trust, as
124 described in s. 704.06(3), or the record owner of the fee
125 interest in the land to which the development right attaches.
126 The conveyance from the governing board of a public agency or
127 the Board of Trustees of the Internal Improvement Trust Fund to
128 the owner of the fee shall be made only after a determination by
129 the board that such conveyance will ~~would~~ not adversely affect
130 the interest of the public. Section 125.35 does not apply to
131 such sales, but any public agency accepting any instrument
132 conveying a development right pursuant to this section shall
133 immediately ~~forthwith~~ adopt appropriate regulations and
134 procedures governing the disposition of the development rights
135 ~~same~~. These regulations and procedures must provide in part that
136 the board may not convey a development right to the owner of the
137 fee without first holding a public hearing and unless notice of
138 the proposed conveyance and the time and place at which the
139 public hearing is to be held is published once a week for at
140 least 2 weeks in a ~~some~~ newspaper of general circulation in the
141 county involved before ~~prior to~~ the hearing.

142 (6) Unless the context clearly indicates a different
143 meaning, as used ~~The following terms whenever used as referred~~
144 ~~to~~ in this section, the term ~~have the following meanings unless~~
145 ~~a different meaning is clearly indicated by the context:~~

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146 (a) "Board" means ~~is~~ the governing board of any
147 municipality ~~city~~, county, or other public agency of the state
148 or the Board of Trustees of the Internal Improvement Trust Fund.

149 (b) "Conservation restriction" means a limitation on a
150 right to the use of land for purposes of conserving or
151 preserving land or water areas predominantly in their natural,
152 scenic, open, agricultural, or wooded condition. The limitation
153 on rights to the use of land may involve or pertain to any of
154 the activities enumerated in s. 704.06(1).

155 (c) "Conservation easement" means that property right
156 described in s. 704.06.

157 (d) "Covenant" means an agreement running with the land
158 which restricts the use of the land exclusively to conservation,
159 outdoor recreational, or park purposes ~~is a covenant running~~
160 ~~with the land.~~

161 (e) "Deferred tax liability" means an amount equal to the
162 difference between the total amount of taxes that would have
163 been due in March in each of the previous years in which the
164 conveyance or covenant was in effect if the property had been
165 assessed under the provisions of s. 193.011 and the total amount
166 of taxes actually paid in those years when the property was
167 assessed under the provisions of this section, plus interest on
168 that difference computed as provided in s. 212.12(3).

169 (f) "Development right" means ~~is~~ the right of the owner of
170 the fee interest in the land to change the use of the land.

171 (g) "Outdoor recreational or park purposes" includes, but
172 is not necessarily limited to, boating, golfing, camping,
173 swimming, horseback riding, and archaeological, scenic, or
174 scientific sites and applies only to land which is open to the

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175 general public.

176 (h) "Present use" is the manner in which the land is used
177 ~~utilized~~ on January 1 of the year in which the assessment is
178 made.

179 (i) "Qualified as environmentally endangered" means land
180 that has unique ecological characteristics, rare or limited
181 combinations of geological formations, or features of a rare or
182 limited nature constituting habitat suitable for fish, plants,
183 or wildlife, and that ~~which~~, if subject to a development
184 moratorium or one or more conservation easements or development
185 restrictions appropriate to retaining such land or water areas
186 predominantly in their natural state, would be consistent with
187 the conservation, recreation and open space, and, if applicable,
188 coastal protection elements of the comprehensive plan adopted by
189 formal action of the local governing body pursuant to s.
190 163.3161, the Local Government Comprehensive Planning and Land
191 Development Regulation Act, ~~+~~ or surface waters and wetlands, as
192 determined by the methodology ratified in s. 373.4211.

193 (j) "Conservation purposes" means the retention of:

194 1. The substantial natural value of land, including
195 woodlands, wetlands, water courses, ponds, streams, and natural
196 open spaces;

197 2. The land as suitable habitat for fish, plants, or
198 wildlife; or

199 3. The natural value of land for water quality enhancement
200 or water recharge.

201 (7) (a) The property appraiser shall report to the
202 department showing the just value and the classified use value
203 of property that is subject to a conservation easement under s.

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204 704.06, property assessed as environmentally endangered land
205 pursuant to this section, and property assessed as outdoor
206 recreational or park land.

207 (b) The tax collector shall annually report to the
208 department the amount of deferred tax liability collected
209 pursuant to this section.

210 (8) (a) A covenant must include:

211 1. Identification of the land to which the covenant
212 applies;

213 2. The land's allowable use or uses;

214 3. The period of time for which the covenant applies;

215 4. The names of all parties to the covenant and the
216 responsibilities of each party in ensuring that the terms of the
217 covenant are enforced;

218 5. Penalties that apply if the covenant is breached;

219 6. A statement that the covenant runs with the land and
220 applies to future landowners; and

221 7. Signatures of all parties to the covenant attesting that
222 all information in the covenant is true, correct, and complete.

223 (b) A covenant must be notarized.

224 (c) The executive director of the Department of Revenue
225 shall work with the Board of Trustees of the Internal
226 Improvement Trust Fund, local governments, and conservation
227 organizations to develop a form for a covenant. However, the use
228 of the form is not mandatory.

229 (9)-(8) A person or organization that, on January 1, has the
230 legal title to land that is entitled by law to assessment under
231 this section shall, on or before March 1 of each year, file an
232 application for assessment under this section with the county

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233 property appraiser. The application must identify the property
234 for which assessment under this section is claimed. The initial
235 application for assessment for any property must include a copy
236 of the instrument by which the development right is conveyed or
237 which establishes a covenant that establishes the conservation
238 purposes for which the land is used. The Department of Revenue
239 shall prescribe the forms upon which the application is made.
240 The failure to file an application on or before March 1 of any
241 year constitutes a waiver of assessment under this section for
242 that year. However, an applicant who is qualified to receive an
243 assessment under this section but fails to file an application
244 by March 1 may file an application for the assessment and may
245 file, pursuant to s. 194.011(3), a petition with the value
246 adjustment board requesting that the assessment be granted. The
247 petition must be filed at any time during the taxable year on or
248 before the 25th day following the mailing of the notice by the
249 property appraiser pursuant to s. 194.011(1). Notwithstanding s.
250 194.013, the applicant must pay a nonrefundable fee of \$15 upon
251 filing the petition. Upon reviewing the petition, if the person
252 is qualified to receive the assessment and demonstrates
253 particular extenuating circumstances judged by the property
254 appraiser or the value adjustment board to warrant granting the
255 assessment, the property appraiser or the value adjustment board
256 may grant the assessment. The owner of land that was assessed
257 under this section in the previous year and whose ownership or
258 use has not changed may reapply on a short form as provided by
259 the department. A county may, at the request of the property
260 appraiser and by a majority vote of its governing body, waive
261 the requirement that an annual application or statement be made

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262 for assessment of property within the county. Such waiver may be
263 revoked by a majority vote of the governing body of the county.

264 (10)~~(9)~~ A person or entity that owns land assessed pursuant
265 to this section must notify the property appraiser promptly if
266 the land becomes ineligible for assessment under this section.
267 If any property owner fails to notify the property appraiser and
268 the property appraiser determines that for any year within the
269 preceding 10 years the land was not eligible for assessment
270 under this section, the owner of the land is subject to taxes
271 avoided as a result of such failure plus 15 percent interest per
272 annum and a penalty of 50 percent of the taxes avoided. The
273 property appraiser making such determination shall record in the
274 public records of the county a notice of tax lien against any
275 property owned by that person or entity in the county, and such
276 property must be identified in the notice of tax lien. The
277 property is subject to a lien in the amount of the unpaid taxes
278 and penalties. The lien when filed shall attach to any property
279 identified in the notice of tax lien which is owned by the
280 person or entity and which was improperly assessed. If such
281 person or entity no longer owns property in that county but owns
282 property in some other county or counties of this state, the
283 property appraiser shall record a notice of tax lien in such
284 other county or counties, identifying the property owned by such
285 person or entity.

286 Section 2. The requirements for covenants to convey
287 development rights or impose conservation restrictions in
288 section 193.501(8), Florida Statutes, do not apply to such
289 covenants in existence before the effective date of this act.

290 Section 3. This act shall take effect upon becoming a law,

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291 and applies retroactively to January 1, 2010.