

By the Committee on Environment and Natural Resources; and
Senator Simon

592-02769-23

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1 A bill to be entitled
2 An act relating to state acquisition of lands;
3 amending ss. 253.025 and 570.715, F.S.; requiring,
4 rather than authorizing, the Department of
5 Environmental Protection and the Department of
6 Agriculture and Consumer Services to disclose
7 appraisal reports to private landowners or their
8 representatives during acquisition negotiations;
9 requiring private landowners and their representatives
10 to maintain the confidentiality of such reports or
11 information disclosed by the Department of Agriculture
12 and Consumer Services; requiring the final purchase
13 price in certain option contracts for state land
14 acquisitions and less than fee simple conservation
15 easement acquisitions to be the fair market value as
16 determined by the highest appraisal; conforming a
17 provision to changes made by the act; providing an
18 effective date.

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

21
22 Section 1. Subsection (8) of section 253.025, Florida
23 Statutes, is amended to read:

24 253.025 Acquisition of state lands.—

25 (8) Before approval by the board of trustees, or, when
26 applicable, the Department of Environmental Protection, of any
27 agreement to purchase land pursuant to this chapter, chapter
28 259, chapter 260, or chapter 375, and before negotiations with
29 the parcel owner to purchase any other land, title to which will

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30 vest in the board of trustees, an appraisal of the parcel shall
31 be required as follows:

32 (a) The board of trustees shall adopt by rule the method
33 for determining the value of parcels sought to be acquired by
34 state agencies pursuant to this section.

35 (b) Each parcel to be acquired shall have at least one
36 appraisal. Two appraisals are required when the estimated value
37 of the parcel exceeds \$1 million. However, if both appraisals
38 exceed \$1 million and differ significantly, a third appraisal
39 may be obtained. If a parcel is estimated to be worth \$100,000
40 or less and the director of the Division of State Lands finds
41 that the cost of an outside appraisal is not justified, a
42 comparable sales analysis, an appraisal prepared by the
43 division, or other reasonably prudent procedures may be used by
44 the division to estimate the value of the parcel, provided the
45 public's interest is reasonably protected. The state is not
46 required to appraise the value of lands and appurtenances that
47 are being donated to the state.

48 (c) Appraisal fees and associated costs shall be paid by
49 the agency proposing the acquisition. All appraisals used for
50 the acquisition of lands pursuant to this section shall be
51 prepared by a state-certified appraiser. The board of trustees
52 shall adopt rules for selecting individuals to perform
53 appraisals pursuant to this section. Each fee appraiser selected
54 to appraise a particular parcel shall, before contracting with
55 the agency or a participant in a multiparty agreement, submit to
56 the agency an affidavit substantiating that he or she has no
57 vested or fiduciary interest in such parcel.

58 (d) The fee appraiser and the review appraiser for the

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59 agency may not act in any manner that may be construed as
60 negotiating with the owner of a parcel proposed for acquisition.

61 (e) The board of trustees shall adopt by rule the minimum
62 criteria, techniques, and methods to be used in the preparation
63 of appraisal reports. Such rules shall incorporate, to the
64 extent practicable, generally accepted appraisal standards. Any
65 appraisal issued for acquisition of lands pursuant to this
66 section must comply with the rules adopted by the board of
67 trustees. A certified survey must be made which meets the
68 minimum requirements for upland parcels established in the
69 Standards of Practice for Land Surveying in Florida published by
70 the Department of Agriculture and Consumer Services and which
71 accurately portrays, to the greatest extent practicable, the
72 condition of the parcel as it currently exists. The requirement
73 for a certified survey may, in part or in whole, be waived by
74 the board of trustees any time before submitting the agreement
75 for purchase to the Division of State Lands. When an existing
76 boundary map and description of a parcel are determined by the
77 division to be sufficient for appraisal purposes, the division
78 director may temporarily waive the requirement for a survey
79 until any time before conveyance of title to the parcel.

80 (f) Appraisal reports are confidential and exempt from s.
81 119.07(1)~~7~~ for use by the agency and the board of trustees~~7~~
82 until an option contract is executed or, if no option contract
83 is executed, until 2 weeks before a contract or agreement for
84 purchase is considered for approval by the board of trustees.
85 The Department of Environmental Protection shall ~~may~~ disclose
86 appraisal reports to private landowners or their representatives
87 during negotiations for acquisitions ~~using alternatives to fee~~

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88 ~~simple techniques, if the department determines that disclosure~~
89 ~~of such reports will bring the proposed acquisition to closure.~~
90 However, the private landowner or their representative must
91 agree to maintain the confidentiality of the reports or
92 information. The department may also disclose appraisal
93 information to public agencies or nonprofit organizations that
94 agree to maintain the confidentiality of the reports or
95 information when joint acquisition of property is contemplated,
96 or when a public agency or nonprofit organization enters into a
97 written agreement with the department to purchase and hold
98 property for subsequent resale to the board of trustees. In
99 addition, the department may use, as its own, appraisals
100 obtained by a public agency or nonprofit organization, if the
101 appraiser is selected from the department's list of appraisers
102 and the appraisal is reviewed and approved by the department.
103 For purposes of this paragraph, the term "nonprofit
104 organization" means an organization that is exempt from federal
105 income tax under s. 501(c)(3) of the Internal Revenue Code and,
106 for purposes of the acquisition of conservation lands, an
107 organization whose purpose must include the preservation of
108 natural resources. The agency may release an appraisal report
109 when the passage of time has rendered the conclusions of value
110 in the report invalid or when the acquiring agency has
111 terminated negotiations.

112 (g) Before acceptance of an appraisal, the agency shall
113 submit a copy of such report to the division. The division shall
114 review such report for compliance with the rules of the board.
115 Any questions of applicability of laws affecting an appraisal
116 shall be addressed by the legal office of the agency.

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117 (h) The appraisal report shall be accompanied by the sales
118 history of the parcel for at least the previous 5 years. Such
119 sales history shall include all parties and considerations with
120 the amount of consideration verified, if possible. If a sales
121 history would not be useful, or it is cost prohibitive compared
122 to the value of a parcel, the sales history may be waived by the
123 board of trustees. The board of trustees shall adopt a rule
124 specifying guidelines for waiver of a sales history.

125 (i) The board of trustees may consider an appraisal
126 acquired by a seller, or any part thereof, in negotiating to
127 purchase a parcel, but such appraisal may not be used in lieu of
128 an appraisal required by this subsection or to determine the
129 maximum offer allowed by law.

130 (j)1. The board of trustees shall adopt by rule the method
131 for determining the value of parcels sought to be acquired by
132 state agencies pursuant to this section. An offer by a state
133 agency may not exceed the value for that parcel as determined
134 pursuant to the highest approved appraisal or the value
135 determined pursuant to the rules of the board of trustees,
136 whichever value is less.

137 2. For a joint acquisition by a state agency and a local
138 government or other entity apart from the state, the joint
139 purchase price may not exceed 150 percent of the value for a
140 parcel as determined in accordance with the limits in
141 subparagraph 1. The state agency share of a joint purchase offer
142 may not exceed what the agency may offer singly pursuant to
143 subparagraph 1.

144 3. This paragraph does not apply to the acquisition of
145 historically unique or significant property as determined by the

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146 Division of Historical Resources of the Department of State.

147
148 Notwithstanding this subsection, on behalf of the board of
149 trustees and before the appraisal of parcels approved for
150 purchase under this chapter or chapter 259, the Secretary of
151 Environmental Protection or the director of the Division of
152 State Lands may enter into option contracts to buy such parcels.
153 Except as otherwise authorized under this subsection, any such
154 option contract shall state that the final purchase price is
155 subject to approval by the board of trustees or, if applicable,
156 the Secretary of Environmental Protection, and shall be the fair
157 market value as determined by the highest appraisal and ~~that the~~
158 ~~final purchase price~~ may not exceed the maximum offer allowed by
159 law. Any such option contract presented to the board of trustees
160 for final purchase price approval shall explicitly state that
161 payment of the final purchase price is subject to an
162 appropriation from the Legislature. The consideration for such
163 an option may not exceed \$1,000 or 0.01 percent of the estimate
164 by the department of the value of the parcel, whichever amount
165 is greater.

166 Section 2. Paragraph (d) of subsection (1) and subsection
167 (5) of section 570.715, Florida Statutes, are amended to read:

168 570.715 Conservation easement acquisition procedures.—

169 (1) For less than fee simple acquisitions pursuant to s.
170 570.71, the Department of Agriculture and Consumer Services
171 shall comply with the following acquisition procedures:

172 (d) On behalf of the board of trustees and before the
173 appraisal of parcels approved for purchase under ss.
174 259.105(3)(i) and 570.71, the department may enter into option

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175 contracts to buy less than fee simple interest in such parcels.
176 Any such option contract shall state that the final purchase
177 price is subject to approval by the board of trustees and that
178 the final purchase price shall be the fair market value as
179 determined by the highest approved appraisal and may not exceed
180 the maximum offer authorized by law. Any such option contract
181 presented to the board of trustees for final purchase price
182 approval shall explicitly state that payment of the final
183 purchase price is subject to an appropriation by the
184 Legislature. The consideration for any such option contract may
185 not exceed \$1,000 or 0.01 percent of the estimate by the
186 department of the value of the parcel, whichever amount is
187 greater.

188 (5) Appraisal reports are confidential and exempt from s.
189 119.07(1), ~~for use by the department and the board of trustees,~~
190 until an option contract is executed or, if an option contract
191 is not executed, until 2 weeks before a contract or agreement
192 for purchase is considered for approval by the board of
193 trustees. ~~However,~~ The department shall ~~has the authority, at~~
194 ~~its discretion, to disclose appraisal reports to private~~
195 landowners or their representatives during negotiations for
196 acquisitions. ~~However,~~ the private landowner or their
197 representative must agree to maintain the confidentiality of the
198 reports or information ~~using alternatives to fee simple~~
199 ~~techniques, if the department determines that disclosure of such~~
200 ~~reports will bring the proposed acquisition to closure.~~ The
201 department may also disclose appraisal information to public
202 agencies or nonprofit organizations that agree to maintain the
203 confidentiality of the reports or information when joint

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204 acquisition of property is contemplated, or when a public agency
205 or nonprofit organization enters into a written multiparty
206 agreement with the department. For purposes of this subsection,
207 the term "nonprofit organization" means an organization whose
208 purposes include the preservation of natural resources, and
209 which is exempt from federal income tax under s. 501(c)(3) of
210 the Internal Revenue Code. The department may release an
211 appraisal report when the passage of time has rendered the
212 conclusions of value in the report invalid or when the
213 department has terminated negotiations.

214 Section 3. This act shall take effect July 1, 2023.