

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 affected governments;
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), county or
98 municipal governments with jurisdiction over lands receiving the
99 exemption provided in this section have a third-party right of
100 enforcement to enforce the terms of the applicable conservation
101 easement.

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

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

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

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

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

118 193.501 Assessment of lands subject to a conservation
 119 easement, environmentally endangered lands, or lands used for
 120 outdoor recreational or park purposes when land development
 121 rights have been conveyed or conservation restrictions have been
 122 covenanted.--

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

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

138 (b) Covenant with the governing board of any public agency
 139 in this state within which the land is located, or with the
 140 Board of Trustees of the Internal Improvement Trust Fund, or

141 with a charitable corporation or trust as described in s.
 142 704.06(3), that such land be subject to one or more of the
 143 conservation restrictions provided in s. 704.06(1) or not be
 144 used by the owner for any purpose other than outdoor
 145 recreational or park purposes. If land is covenanted and used
 146 for an outdoor recreational purpose, the normal use and
 147 maintenance of the land for that purpose, consistent with the
 148 covenant, shall not be restricted.

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

151 704.06 Conservation easements; creation; acquisition;
 152 enforcement.--

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

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

159 195.073 Classification of property.--All items required by
 160 law to be on the assessment rolls must receive a classification
 161 based upon the use of the property. The department shall
 162 promulgate uniform definitions for all classifications. The
 163 department may designate other subclassifications of property.
 164 No assessment roll may be approved by the department which does
 165 not show proper classifications.

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

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

- 171 1. Single family.
- 172 2. Mobile homes.
- 173 3. Multifamily.
- 174 4. Condominiums.
- 175 5. Cooperatives.
- 176 6. Retirement homes.
- 177 (b) Commercial and industrial.
- 178 (c) Agricultural.
- 179 (d) Nonagricultural acreage.
- 180 (e) High-water recharge.
- 181 (f) Historic property used for commercial or certain
 182 nonprofit purposes.
- 183 (g) Exempt, wholly or partially.
- 184 (h) Centrally assessed.
- 185 (i) Leasehold interests.
- 186 (j) Time-share property.
- 187 (k) Land assessed under s. 193.501.
- 188 (l) ~~(k)~~ Other.

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

191 196.011 Annual application required for exemption.--

192 (6) (a) Once an original application for tax exemption has
 193 been granted, in each succeeding year on or before February 1,
 194 the property appraiser shall mail a renewal application to the
 195 applicant, and the property appraiser shall accept from each

196 such applicant a renewal application on a form ~~to be~~ prescribed
197 by the Department of Revenue. Such renewal application shall be
198 accepted as evidence of exemption by the property appraiser
199 unless he or she denies the application. Upon denial, the
200 property appraiser shall serve, on or before July 1 of each
201 year, a notice setting forth the grounds for denial on the
202 applicant by first-class mail. Any applicant objecting to such
203 denial may file a petition as provided for in s. 194.011(3).

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

214 (9) (a) A county may, at the request of the property
215 appraiser and by a majority vote of its governing body, waive
216 the requirement that an annual application or statement be made
217 for exemption of property within the county after an initial
218 application is made and the exemption granted. The waiver under
219 this subsection of the annual application or statement
220 requirement applies to all exemptions under this chapter except
221 the exemption under s. 196.1995. Notwithstanding such waiver,
222 refiling of an application or statement shall be required when
223 any property granted an exemption is sold or otherwise disposed

224 of, when the ownership changes in any manner, when the applicant
225 for homestead exemption ceases to use the property as his or her
226 homestead, or when the status of the owner changes so as to
227 change the exempt status of the property. In its deliberations
228 on whether to waive the annual application or statement
229 requirement, the governing body shall consider the possibility
230 of fraudulent exemption claims which may occur due to the waiver
231 of the annual application requirement. ~~It is the duty of~~ The
232 owner of any property granted an exemption who is not required
233 to file an annual application or statement shall ~~to~~ notify the
234 property appraiser promptly whenever the use of the property or
235 the status or condition of the owner changes so as to change the
236 exempt status of the property. If any property owner fails to so
237 notify the property appraiser and the property appraiser
238 determines that for any year within the prior 10 years the owner
239 was not entitled to receive such exemption, the owner of the
240 property is subject to the taxes exempted as a result of such
241 failure plus 15 percent interest per annum and a penalty of 50
242 percent of the taxes exempted. Except for homestead exemptions
243 controlled by s. 196.161, ~~it is the duty of~~ the property
244 appraiser making such determination shall ~~to~~ record in the
245 public records of the county a notice of tax lien against any
246 property owned by that person or entity in the county, and such
247 property must be identified in the notice of tax lien. Such
248 property is subject to the payment of all taxes and penalties.
249 Such lien when filed shall attach to any property, identified in
250 the notice of tax lien, owned by the person who illegally or
251 improperly received the exemption. If ~~Should~~ such person no

252 longer owns ~~own~~ property in that county, but owns ~~own~~ property
 253 in some other county or counties in the state, ~~it shall be the~~
 254 ~~duty of~~ the property appraiser shall ~~to~~ record a notice of tax
 255 lien in such other county or counties, identifying the property
 256 owned by such person or entity in such county or counties, and
 257 it shall become a lien against such property in such county or
 258 counties.

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

271 (c) ~~(b)~~ A county may, at the request of the property
 272 appraiser and by a majority vote of its governing body, waive
 273 the requirement that an annual application be made for the
 274 veteran's disability discount granted pursuant to s. 6(g), Art.
 275 VII of the State Constitution after an initial application is
 276 made and the discount granted. ~~It is the duty of~~ The disabled
 277 veteran receiving a discount for which annual application has
 278 been waived shall ~~to~~ notify the property appraiser promptly
 279 whenever the use of the property or the percentage of disability

280 to which the veteran is entitled changes. If a disabled veteran
 281 fails to notify the property appraiser and the property
 282 appraiser determines that for any year within the prior 10 years
 283 the veteran was not entitled to receive all or a portion of such
 284 discount, the penalties and processes in paragraph (a) relating
 285 to the failure to notify the property appraiser of ineligibility
 286 for an exemption shall apply.

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

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

299 Section 6. Paragraph (c) of subsection (2) of section
 300 192.0105, Florida Statutes, is amended to read:

301 192.0105 Taxpayer rights.--There is created a Florida
 302 Taxpayer's Bill of Rights for property taxes and assessments to
 303 guarantee that the rights, privacy, and property of the
 304 taxpayers of this state are adequately safeguarded and protected
 305 during tax levy, assessment, collection, and enforcement
 306 processes administered under the revenue laws of this state. The
 307 Taxpayer's Bill of Rights compiles, in one document, brief but

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

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

321 (c) The right to file a petition for exemption or
 322 agricultural classification with the value adjustment board when
 323 an application deadline is missed, upon demonstration of
 324 particular extenuating circumstances for filing late (see ss.
 325 193.461(3)(a) and 196.011(1), (7), (8), and (9) (e) ~~(d)~~).

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

328 218.125 Replacement for tax loss associated with certain
 329 constitutional amendments affecting fiscally constrained
 330 counties.--

331 (1) Beginning in the 2010-2011 fiscal year, the
 332 Legislature shall appropriate moneys to replace the reductions
 333 in ad valorem tax revenue experienced by fiscally constrained
 334 counties, as defined in s. 218.67(1), with a population not
 335 greater than 25,000, which occur as a direct result of the

336 implementation of revisions of ss. 3(f) and 4(b), Art. VII of
337 the State Constitution which were approved in the general
338 election held in November 2008. The moneys appropriated for this
339 purpose shall be distributed in January of each fiscal year
340 among the fiscally constrained counties based on each county's
341 proportion of the total reduction in ad valorem tax revenue
342 resulting from the implementation of the revisions.

343 (2) On or before November 15 of each year, beginning in
344 2010, each fiscally constrained county shall apply to the
345 Department of Revenue to participate in the distribution of the
346 appropriation and provide documentation supporting the county's
347 estimated reduction in ad valorem tax revenue in the form and
348 manner prescribed by the Department of Revenue. The
349 documentation must include an estimate of the reduction in
350 taxable value directly attributable to revisions of Art. VII of
351 the State Constitution for all county taxing jurisdictions
352 within the county and shall be prepared by the property
353 appraiser in each fiscally constrained county. The documentation
354 must also include the county millage rates applicable in all
355 such jurisdictions for the current year and the prior year,
356 rolled-back rates determined as provided in s. 200.065 for each
357 county taxing jurisdiction, and maximum millage rates that could
358 have been levied by majority vote pursuant to s. 200.185. For
359 purposes of this section, each fiscally constrained county's
360 reduction in ad valorem tax revenue shall be calculated as 95
361 percent of the estimated reduction in taxable value times the
362 lesser of the 2010 applicable millage rate or the applicable
363 millage rate for each county taxing jurisdiction in the prior

364 year.

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

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