

1                                   A bill to be entitled  
 2           An act relating to acquisition of state and state-owned  
 3           lands for purposes including preservation, conservation,  
 4           and recreation; amending s. 253.025, F.S.; providing for  
 5           appraisal process consistency; clarifying the appraisal  
 6           requirement to require two appraisals when the estimated  
 7           value of the parcel exceeds \$500,000; requiring the second  
 8           appraiser be selected by Department of Agriculture and  
 9           Consumer Services; requiring a third appraiser be selected  
 10          by Department of Financial Services under certain  
 11          circumstances; requiring the review appraiser be selected  
 12          by Department of Financial Services; limiting the amount  
 13          paid by the state in joint acquisitions with a local  
 14          government or other entity apart from the state; amending  
 15          s. 259.041, F.S.; making conforming changes; providing an  
 16          effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Subsections (6) and (7) of Section 253.025,  
 21 Florida Statutes, are amended to read:

22           253.025 Acquisition of state lands for purposes other than  
 23 preservation, conservation, and recreation.--

24           (6) Prior to negotiations with the parcel owner to  
 25 purchase land pursuant to this section, title to which will vest  
 26 in the board of trustees, an appraisal of the parcel shall be  
 27 required as follows:

28 (a) Each parcel to be acquired shall have at least one  
 29 appraisal. Two appraisals are required when the estimated value  
 30 of the parcel exceeds \$500,000~~\$1 million~~. When two appraisals  
 31 are required, one appraiser shall be selected by the Department  
 32 of Agriculture and Consumer Services. When both appraisals  
 33 exceed \$500,000 and differ significantly, a third appraisal  
 34 shall be obtained, with the Department of Financial Services  
 35 selecting the third appraiser. Two appraisals shall be  
 36 considered to differ significantly if the higher of the two  
 37 values exceeds 120% of the lower value. When the estimated value  
 38 of a parcel exceeds \$500,000, the review appraiser shall be  
 39 selected by the Department of Financial Services. To provide for  
 40 payment by the agency selecting the second and third appraiser  
 41 and review appraiser, as required by this section, Department of  
 42 Environmental Protection shall enter into interagency agreements  
 43 with Department of Agriculture and Consumer Services and  
 44 Department of Financial Services, whereby funds will be  
 45 transferred to those agencies for that purpose upon direction of  
 46 the selecting agency. When a parcel is estimated to be worth  
 47 \$100,000 or less and the director of the Division of State Lands  
 48 finds that the cost of an outside appraisal is not justified, an  
 49 appraisal prepared by the division may be used~~a comparable~~  
 50 ~~sales analysis or other reasonably prudent procedures may be~~  
 51 ~~used by the division to estimate the value of the parcel,~~  
 52 ~~provided the public's interest is reasonably protected. The~~  
 53 state is not required to appraise the value of lands and  
 54 appurtenances that are being donated to the state.

55 (b) Appraisal fees shall be paid by the agency proposing  
56 the acquisition. The board of trustees shall approve qualified  
57 fee appraisal organizations. All appraisals used for the  
58 acquisition of lands pursuant to this section shall be prepared  
59 by a member of an approved appraisal organization or by a state-  
60 certified appraiser. The Division of State Lands shall adopt  
61 rules for selecting individuals to perform appraisals pursuant  
62 to this section. Each fee appraiser selected to appraise a  
63 particular parcel shall, prior to contracting with the agency,  
64 submit to that agency an affidavit substantiating that he or she  
65 has no vested or fiduciary interest in such parcel.

66 (c) The board of trustees shall adopt by rule the minimum  
67 criteria, techniques, and methods to be used in the preparation  
68 of appraisal reports. Such rules shall incorporate, to the  
69 extent practicable, generally accepted appraisal standards. Any  
70 appraisal issued for acquisition of lands pursuant to this  
71 section must comply with the rules adopted by the board of  
72 trustees. A certified survey must be made which meets the  
73 minimum requirements for upland parcels established in the  
74 Minimum Technical Standards for Land Surveying in Florida  
75 published by the Department of Business and Professional  
76 Regulation and which accurately portrays, to the greatest extent  
77 practicable, the condition of the parcel as it currently exists.  
78 The requirement for a certified survey may, in part or in whole,  
79 be waived by the board of trustees any time prior to submitting  
80 the agreement for purchase to the Division of State Lands. When  
81 an existing boundary map and description of a parcel are  
82 determined by the division to be sufficient for appraisal

83 | purposes, the division director may temporarily waive the  
84 | requirement for a survey until any time prior to conveyance of  
85 | title to the parcel. The fee appraiser and the review appraiser  
86 | ~~for the agency~~ shall not act in any way that may be construed as  
87 | negotiating with the property owner.

88 | (d) Appraisal reports are confidential and exempt from the  
89 | provisions of s. 119.07(1), for use by the agency and the board  
90 | of trustees, until an option contract is executed or, if no  
91 | option contract is executed, until 2 weeks before a contract or  
92 | agreement for purchase is considered for approval by the board  
93 | of trustees. However, the Division of State Lands may disclose  
94 | appraisal information to public agencies or nonprofit  
95 | organizations that agree to maintain the confidentiality of the  
96 | reports or information when joint acquisition of property is  
97 | contemplated, or when a public agency or nonprofit organization  
98 | enters into a written agreement with the division to purchase  
99 | and hold property for subsequent resale to the division. In  
100 | addition, the division may use, as its own, appraisals obtained  
101 | by a public agency or nonprofit organization, provided the  
102 | appraiser is selected from the division's list of appraisers and  
103 | the appraisal is reviewed and approved by the division. For the  
104 | purposes of this paragraph, "nonprofit organization" means an  
105 | organization whose purpose is the preservation of natural  
106 | resources, and which is exempt from federal income tax under s.  
107 | 501(c)(3) of the Internal Revenue Code. The agency may release  
108 | an appraisal report when the passage of time has rendered the  
109 | conclusions of value in the report invalid.

110 (e) Prior to acceptance of an appraisal, the agency shall  
 111 submit a copy of such report to the Division of State Lands. The  
 112 division shall review such report for compliance with the rules  
 113 of the board of trustees. With respect to proposed purchases in  
 114 excess of \$250,000, this review shall include a general field  
 115 inspection of the subject property by the review appraiser. The  
 116 review appraiser may reject an appraisal report following a desk  
 117 review, but is prohibited from approving an appraisal report in  
 118 excess of \$250,000 without a field review. Any questions of  
 119 applicability of laws affecting an appraisal shall be addressed  
 120 by the legal office of the agency.

121 (f) The appraisal report shall be accompanied by the sales  
 122 history of the parcel for at least the prior 5 years. Such sales  
 123 history shall include all parties and considerations with the  
 124 amount of consideration verified, if possible. If a sales  
 125 history would not be useful, or its cost prohibitive compared to  
 126 the value of a parcel, the sales history may be waived by the  
 127 Secretary of Environmental Protection or the director of the  
 128 Division of State Lands. The department shall adopt a rule  
 129 specifying guidelines for waiver of a sales history.

130 (g) The board of trustees may consider an appraisal  
 131 acquired by a seller, or any part thereof, in negotiating to  
 132 purchase a parcel, but such appraisal may not be used in lieu of  
 133 an appraisal required by this subsection or to determine the  
 134 maximum offer allowed by law.

135 (7) (a) When the owner is represented by an agent or  
 136 broker, negotiations may not be initiated or continued until a  
 137 written statement verifying such agent's or broker's legal or

138 fiduciary relationship with the owner is on file with the  
 139 agency.

140 (b) The board of trustees or any state agency may contract  
 141 for real estate acquisition services, including, but not limited  
 142 to, contracts for real estate commission fees.

143 (c) Upon the initiation of negotiations, the state agency  
 144 shall inform the owner in writing that all agreements for  
 145 purchase are subject to approval by the board of trustees.

146 (d) All offers or counteroffers shall be documented in  
 147 writing and shall be confidential and exempt from the provisions  
 148 of s. 119.07(1) until an option contract is executed, or if no  
 149 option contract is executed, until 2 weeks before a contract or  
 150 agreement for purchase is considered for approval by the board  
 151 of trustees. The agency shall maintain complete and accurate  
 152 records of all offers and counteroffers for all projects.

153 (e)1. The board of trustees shall adopt by rule the method  
 154 for determining the value of parcels sought to be acquired by  
 155 state agencies pursuant to this section. No offer by a state  
 156 agency, except an offer by an agency acquiring lands pursuant to  
 157 s. 259.041, may exceed the value for that parcel as determined  
 158 pursuant to the highest approved appraisal or the value  
 159 determined pursuant to the rules of the board of trustees,  
 160 whichever value is less.

161 2. In the case of a joint acquisition by a state agency  
 162 and a local government or other entity apart from the state, the  
 163 joint purchase price may not exceed ~~150 percent of~~ the value for  
 164 a parcel as determined in accordance with the limits prescribed  
 165 in subparagraph 1. The state agency share of a joint purchase

166 offer shall ~~may not~~ exceed the difference between the appraised  
 167 value, as determined by the state, and the sum of the  
 168 contributions of the other parties ~~what the agency may offer~~  
 169 ~~singly as prescribed by subparagraph 1.~~

170 3. The provisions of this paragraph do not apply to the  
 171 acquisition of historically unique or significant property as  
 172 determined by the Division of Historical Resources of the  
 173 Department of State.

174 (f) When making an offer to a landowner, a state agency  
 175 shall consider the desirability of a single cash payment in  
 176 relation to the maximum offer allowed by law.

177 (g) The state shall have the authority to reimburse the  
 178 owner for the cost of the survey when deemed appropriate. The  
 179 reimbursement shall not be considered a part of the purchase  
 180 price.

181 (h) A final offer shall be in the form of an option  
 182 contract or agreement for purchase and shall be signed and  
 183 attested to by the owner and the representative of the agency.  
 184 Before the agency executes the option contract or agreement for  
 185 purchase, the contract or agreement shall be reviewed for form  
 186 and legality by legal staff of the agency. Before the agency  
 187 signs the agreement for purchase or exercises the option  
 188 contract, the provisions of s. 286.23 shall be complied with.  
 189 Within 10 days after the signing of the agreement for purchase,  
 190 the state agency shall furnish the Division of State Lands with  
 191 the original of the agreement for purchase along with copies of  
 192 the disclosure notice, evidence of marketability, the accepted  
 193 appraisal report, the fee appraiser's affidavit, a statement

194 that the inventory of existing state-owned lands was examined  
 195 and contained no available suitable land in the area, and a  
 196 statement outlining the public purpose for which the acquisition  
 197 is being made and the statutory authority therefor.

198 (i) Within 45 days of receipt by the Division of State  
 199 Lands of the agreement for purchase and the required  
 200 documentation, the board of trustees or, when the purchase price  
 201 does not exceed \$100,000, its designee shall either reject or  
 202 approve the agreement. An approved agreement for purchase is  
 203 binding on both parties. Any agreement which has been  
 204 disapproved shall be returned to the agency, along with a  
 205 statement as to the deficiencies of the agreement or the  
 206 supporting documentation. An agreement for purchase which has  
 207 been disapproved by the board of trustees may be resubmitted  
 208 when such deficiencies have been corrected.

209 Section 2. Subsections (1), (2), (3) and (7) of section  
 210 259.041, Florida Statutes, are amended to read:

211 259.041 Acquisition of state-owned lands for preservation,  
 212 conservation, and recreation purposes.--

213 (1) Neither the Board of Trustees of the Internal  
 214 Improvement Trust Fund nor its duly authorized agent shall  
 215 commit the state, through any instrument of negotiated contract  
 216 or agreement for purchase, to the purchase of lands with or  
 217 without appurtenances unless the provisions of this section have  
 218 been fully complied with. Except for the requirements of  
 219 subsections (3), (7), (14), and (15), the board of trustees may  
 220 waive any requirements of this section, may waive any rules  
 221 adopted pursuant to this section, notwithstanding chapter 120,



222 or may substitute other reasonably prudent procedures, provided  
 223 the public's interest is reasonably protected. The title to  
 224 lands acquired pursuant to this section shall vest in the board  
 225 of trustees as provided in s. 253.03(1), unless otherwise  
 226 provided by law, and all such titled lands shall be administered  
 227 pursuant to the provisions of s. 253.03.

228 (2) The board of trustees has authority to adopt rules  
 229 pursuant to ss. 120.536(1) and 120.54 to implement the  
 230 provisions of this section, including rules governing the terms  
 231 and conditions of land purchases. Such rules shall address with  
 232 specificity, but not be limited to:

233 (a) The procedures to be followed in the acquisition  
 234 process, including selection of appraisers, surveyors, title  
 235 agents and closing agents, and the content of appraisal reports.

236 (b) The determination of the value of parcels which the  
 237 state has an interest to acquire.

238 (c) Special requirements when multiple landowners are  
 239 involved in an acquisition.

240 (d) Requirements for obtaining written option agreements  
 241 so that the interests of the state are fully protected.

242 (e) Special requirements when multiple purchasers are  
 243 involved in an acquisition.

244 (3) No agreement to acquire real property for the purposes  
 245 described in this chapter, chapter 260, or chapter 375, title to  
 246 which will vest in the board of trustees, may bind the state  
 247 unless and until the agreement has been reviewed and approved by  
 248 the Department of Environmental Protection as complying with the  
 249 requirements of this section and any rules adopted pursuant to

250 | this section. When the state is a party to a joint acquisition  
 251 | in which another entity is contributing to the agreed contract  
 252 | price, the state contribution shall not exceed the difference  
 253 | between the appraised value, as determined by the state, and the  
 254 | sum of the contributions of the other parties. Where any of the  
 255 | following conditions exist, the agreement shall be submitted to  
 256 | and approved by the board of trustees:

257 |       (a) The purchase price agreed to by the seller exceeds the  
 258 | value as established pursuant to the rules of the board of  
 259 | trustees;

260 |       (b) The contract price agreed to by the seller and  
 261 | acquiring agency exceeds \$1 million;

262 |       (c) The acquisition is the initial purchase in a project;  
 263 | or

264 |       (d) Other conditions that the board of trustees may adopt  
 265 | by rule. Such conditions may include, but not be limited to,  
 266 | projects where title to the property being acquired is  
 267 | considered nonmarketable or is encumbered in such a way as to  
 268 | significantly affect its management.

269 |  
 270 | Where approval of the board of trustees is required pursuant to  
 271 | this subsection, the acquiring agency must provide a  
 272 | justification as to why it is in the public's interest to  
 273 | acquire the parcel or project. Approval of the board of trustees  
 274 | also is required for projects the department recommends  
 275 | acquiring pursuant to subsections (14) and (15). Review and  
 276 | approval of agreements for acquisitions for Florida Greenways  
 277 | and Trails Program properties pursuant to chapter 260 may be

278 waived by the department in any contract with nonprofit  
 279 corporations that have agreed to assist the department with this  
 280 program.

281 (7) Prior to approval by the board of trustees or, when  
 282 applicable, the Department of Environmental Protection, of any  
 283 agreement to purchase land pursuant to this chapter, chapter  
 284 260, or chapter 375, and prior to negotiations with the parcel  
 285 owner to purchase any other land, title to which will vest in  
 286 the board of trustees, an appraisal of the parcel shall be  
 287 required as follows:

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

291 (b) Each parcel to be acquired shall have at least one  
 292 appraisal. Two appraisals are required when the estimated value  
 293 of the parcel exceeds \$500,000. When two appraisals are  
 294 required, one appraiser shall be selected by the Department of  
 295 Agriculture and Consumer Services. ~~However, w~~When both  
 296 appraisals exceed \$500,000 and differ significantly, a third  
 297 appraisal shall ~~may~~ be obtained, with the Department of  
 298 Financial Services selecting the third appraiser. Two appraisals  
 299 shall be considered to differ significantly if the higher of the  
 300 two values exceeds 120% of the lower value. When the estimated  
 301 value of the parcel exceeds \$500,000, the review appraiser shall  
 302 be selected by the Department of Financial Services. To provide  
 303 for payment by the agency selecting the second and third  
 304 appraiser and review appraiser, as required by this section,  
 305 Department of Environmental Protection shall enter into

306 interagency agreements with Department of Agriculture and  
 307 Consumer Services and Department of Financial Services, whereby  
 308 funds will be transferred to those agencies for that purpose  
 309 upon direction of the selecting agency. When a parcel is  
 310 estimated to be worth \$100,000 or less and the director of the  
 311 Division of State Lands finds that the cost of obtaining an  
 312 outside appraisal is not justified, an appraisal prepared by the  
 313 division may be used. The state is not required to appraise the  
 314 value of lands and appurtenances that are being donated to the  
 315 state.

316 (c) Appraisal fees and associated costs shall be paid by  
 317 the agency proposing the acquisition. The board of trustees  
 318 shall approve qualified fee appraisal organizations. All  
 319 appraisals used for the acquisition of lands pursuant to this  
 320 section shall be prepared by a member of an approved appraisal  
 321 organization or by a state-certified appraiser who meets the  
 322 standards and criteria established in rule by the board of  
 323 trustees. Each fee appraiser selected to appraise a particular  
 324 parcel shall, prior to contracting with the agency or a  
 325 participant in a multiparty agreement, submit to that agency or  
 326 participant an affidavit substantiating that he or she has no  
 327 vested or fiduciary interest in such parcel.

328 (d) The fee appraiser and the review appraiser ~~for the~~  
 329 ~~agency~~ shall not act in any way that may be construed as  
 330 negotiating with the property owner.

331 (e) Generally, appraisal reports are confidential and  
 332 exempt from the provisions of s. 119.07(1), for use by the  
 333 agency and the board of trustees, until an option contract is

334 executed or, if no option contract is executed, until 2 weeks  
335 before a contract or agreement for purchase is considered for  
336 approval by the board of trustees. However, the department has  
337 the authority, at its discretion, to disclose appraisal reports  
338 to private landowners during negotiations for acquisitions using  
339 alternatives to fee simple techniques, if the department  
340 determines that disclosure of such reports will bring the  
341 proposed acquisition to closure. The Division of State Lands may  
342 also disclose appraisal information to public agencies or  
343 nonprofit organizations that agree to maintain the  
344 confidentiality of the reports or information when joint  
345 acquisition of property is contemplated, or when a public agency  
346 or nonprofit organization enters into a written multiparty  
347 agreement with the division to purchase and hold property for  
348 subsequent resale to the division. In addition, the division may  
349 use, as its own, appraisals obtained by a public agency or  
350 nonprofit organization, provided the appraiser is selected from  
351 the division's list of appraisers and the appraisal is reviewed  
352 and approved by the division. For the purposes of this chapter,  
353 "nonprofit organization" means an organization whose purposes  
354 include the preservation of natural resources, and which is  
355 exempt from federal income tax under s. 501(c)(3) of the  
356 Internal Revenue Code. The agency may release an appraisal  
357 report when the passage of time has rendered the conclusions of  
358 value in the report invalid or when the acquiring agency has  
359 terminated negotiations.

360 (f) The Division of State Lands may use, as its own,  
361 appraisals obtained by a public agency or nonprofit

PCB GEAC 08-15

2008

362 organization, provided that the appraiser is selected from the  
363 division's list of appraisers and the appraisal is reviewed and  
364 approved by the division. For the purposes of this chapter, the  
365 term "nonprofit organization" means an organization whose  
366 purposes include the preservation of natural resources and which  
367 is exempt from federal income tax under s. 501(c)(3) of the  
368 Internal Revenue Code.

369

370 Notwithstanding the provisions of this subsection, on behalf of  
371 the board and before the appraisal of parcels approved for  
372 purchase under this chapter, the Secretary of Environmental  
373 Protection or the director of the Division of State Lands may  
374 enter into option contracts to buy such parcels. Any such option  
375 contract shall state that the final purchase price is subject to  
376 approval by the board or, when applicable, the secretary and  
377 that the final purchase price may not exceed the maximum offer  
378 allowed by law. The consideration for such an option may not  
379 exceed \$1,000 or 0.01 percent of the estimate by the department  
380 of the value of the parcel, whichever amount is greater.

381 Section 3. This act shall take effect July 1, 2008.