

By Senator Brown-Waite

10-1194-98

See HB

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A bill to be entitled
An act relating to ad valorem tax assessment;
amending s. 193.461, F.S.; providing liability
for unpaid taxes, penalty, and interest if an
owner of property classified as agricultural
fails to notify the property appraiser when the
property becomes ineligible for such
classification; providing an effective date.

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

Section 1. Subsection (7) is added to section 193.461,
Florida Statutes, to read:

193.461 Agricultural lands; classification and
assessment.--

(1) The property appraiser shall, on an annual basis,
classify for assessment purposes all lands within the county
as either agricultural or nonagricultural.

(2) Any landowner whose land is denied agricultural
classification by the property appraiser may appeal to the
value adjustment board. The property appraiser shall notify
the landowner in writing of the denial of agricultural
classification on or before July 1 of the year for which the
application was filed. The notification shall advise the
landowner of his or her right to appeal to the value
adjustment board and of the filing deadline. The board may
also review all lands classified by the property appraiser
upon its own motion. The property appraiser shall have
available at his or her office a list by ownership of all
applications received showing the acreage, the full valuation
under s. 193.011, the valuation of the land under the

1 provisions of this section, and whether or not the
2 classification requested was granted.

3 (3)(a) No lands shall be classified as agricultural
4 lands unless a return is filed on or before March 1 of each
5 year. The property appraiser, before so classifying such
6 lands, may require the taxpayer or the taxpayer's
7 representative to furnish the property appraiser such
8 information as may reasonably be required to establish that
9 such lands were actually used for a bona fide agricultural
10 purpose. Failure to make timely application by March 1 shall
11 constitute a waiver for 1 year of the privilege herein granted
12 for agricultural assessment. However, an applicant who is
13 qualified to receive an agricultural classification who fails
14 to file an application by March 1 may file an application for
15 the classification and may file, pursuant to s. 194.011(3), a
16 petition with the value adjustment board requesting that the
17 classification be granted. The petition may be filed at any
18 time during the taxable year on or before the 25th day
19 following the mailing of the notice by the property appraiser
20 as provided in s. 194.011(1). Notwithstanding the provisions
21 of s. 194.013, the applicant must pay a nonrefundable fee of
22 \$15 upon filing the petition. Upon reviewing the petition, if
23 the person is qualified to receive the classification and
24 demonstrates particular extenuating circumstances judged by
25 the property appraiser or the value adjustment board to
26 warrant granting the classification, the property appraiser or
27 the value adjustment board may grant the classification. The
28 owner of land that was classified agricultural in the previous
29 year and whose ownership or use has not changed may reapply on
30 a short form as provided by the department. The lessee of
31 property may make original application or reapply using the

1 short form if the lease, or an affidavit executed by the
2 owner, provides that the lessee is empowered to make
3 application for the agricultural classification on behalf of
4 the owner and a copy of the lease or affidavit accompanies the
5 application. A county may, at the request of the property
6 appraiser and by a majority vote of its governing body, waive
7 the requirement that an annual application or statement be
8 made for classification of property within the county after an
9 initial application is made and the classification granted.

10 (b) Subject to the restrictions set out in this
11 section, only lands which are used primarily for bona fide
12 agricultural purposes shall be classified agricultural. "Bona
13 fide agricultural purposes" means good faith commercial
14 agricultural use of the land. In determining whether the use
15 of the land for agricultural purposes is bona fide, the
16 following factors may be taken into consideration:

- 17 1. The length of time the land has been so utilized;
- 18 2. Whether the use has been continuous;
- 19 3. The purchase price paid;
- 20 4. Size, as it relates to specific agricultural use;
- 21 5. Whether an indicated effort has been made to care
22 sufficiently and adequately for the land in accordance with
23 accepted commercial agricultural practices, including, without
24 limitation, fertilizing, liming, tilling, mowing, reforesting,
25 and other accepted agricultural practices;
- 26 6. Whether such land is under lease and, if so, the
27 effective length, terms, and conditions of the lease; and
- 28 7. Such other factors as may from time to time become
29 applicable.

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1 (c) The maintenance of a dwelling on part of the lands
2 used for agricultural purposes shall not in itself preclude an
3 agricultural classification.

4 (d) When property receiving an agricultural
5 classification contains a residence under the same ownership,
6 the portion of the property consisting of the residence and
7 curtilage must be assessed separately, pursuant to s. 193.011,
8 to qualify for the assessment limitation set forth in s.
9 193.155. The remaining property may be classified under the
10 provisions of paragraphs (a) and (b).

11 (4)(a) The property appraiser shall reclassify the
12 following lands as nonagricultural:

13 1. Land diverted from an agricultural to a
14 nonagricultural use.

15 2. Land no longer being utilized for agricultural
16 purposes.

17 3. Land that has been zoned to a nonagricultural use
18 at the request of the owner subsequent to the enactment of
19 this law.

20 (b) The board of county commissioners may also
21 reclassify lands classified as agricultural to nonagricultural
22 when there is contiguous urban or metropolitan development and
23 the board of county commissioners finds that the continued use
24 of such lands for agricultural purposes will act as a
25 deterrent to the timely and orderly expansion of the
26 community.

27 (c) Sale of land for a purchase price which is 3 or
28 more times the agricultural assessment placed on the land
29 shall create a presumption that such land is not used
30 primarily for bona fide agricultural purposes. Upon a showing
31 of special circumstances by the landowner demonstrating that

1 the land is to be continued in bona fide agriculture, this
2 presumption may be rebutted.

3 (5) For the purpose of this section, "agricultural
4 purposes" includes, but is not limited to, horticulture;
5 floriculture; viticulture; forestry; dairy; livestock;
6 poultry; bee; pisciculture, when the land is used principally
7 for the production of tropical fish; aquaculture; sod farming;
8 and all forms of farm products and farm production.

9 (6)(a) In years in which proper application for
10 agricultural assessment has been made and granted pursuant to
11 this section, the assessment of land shall be based solely on
12 its agricultural use. The property appraiser shall consider
13 the following use factors only:

- 14 1. The quantity and size of the property;
- 15 2. The condition of the property;
- 16 3. The present market value of the property as
17 agricultural land;
- 18 4. The income produced by the property;
- 19 5. The productivity of land in its present use;
- 20 6. The economic merchantability of the agricultural
21 product; and
- 22 7. Such other agricultural factors as may from time to
23 time become applicable.

24 (b) In years in which proper application for
25 agricultural assessment has not been made, the land shall be
26 assessed under the provisions of s. 193.011.

27 (7) If the owner of property which is classified as
28 agricultural pursuant to this section fails to notify the
29 property appraiser when the use of the land changes so that it
30 is no longer entitled to the agricultural classification, the
31 owner shall be liable for the unpaid taxes, plus a penalty of

1 50 percent of the unpaid taxes and 15 percent interest per
2 annum, for each year for which the property was granted an
3 agricultural classification to which it was not entitled.
4 However, if the property appraiser determines that such
5 property inadvertently received an agricultural
6 classification, the owner shall be liable for the unpaid taxes
7 only. For purposes of this subsection, unpaid taxes shall be
8 calculated as the difference between the total amount of taxes
9 that would have been due if the property had been assessed
10 pursuant to s. 193.011 and the total amount of taxes actually
11 paid for each such year.

12 Section 2. This act shall take effect January 1 of the
13 year following the year in which enacted.

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16 HOUSE SUMMARY

17 Provides liability for unpaid taxes, penalty, and
18 interest if an owner of property classified as
19 agricultural for ad valorem tax purposes fails to notify
20 the property appraiser when the property becomes
21 ineligible for such classification.
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