

By Representative Stabins

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

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

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

14           193.461 Agricultural lands; classification and  
15   assessment.--

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

19           (2) Any landowner whose land is denied agricultural  
20   classification by the property appraiser may appeal to the  
21   value adjustment board. The property appraiser shall notify  
22   the landowner in writing of the denial of agricultural  
23   classification on or before July 1 of the year for which the  
24   application was filed. The notification shall advise the  
25   landowner of his or her right to appeal to the value  
26   adjustment board and of the filing deadline. The board may  
27   also review all lands classified by the property appraiser  
28   upon its own motion. The property appraiser shall have  
29   available at his or her office a list by ownership of all  
30   applications received showing the acreage, the full valuation  
31   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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15 HOUSE SUMMARY

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