

By Representative Spratt

1 A bill to be entitled
2 An act relating to agriculture; creating ss.
3 570.251-570.275, F.S.; creating the "Florida
4 Agricultural Development Act"; providing
5 legislative findings; providing definitions;
6 establishing the Florida Agricultural
7 Development Authority; providing powers and
8 duties; providing for membership of a board;
9 providing for terms of board members; providing
10 for organization of the board; providing
11 general powers of the authority; providing for
12 an executive director and specifying duties;
13 requiring an annual report; providing for the
14 use of surplus moneys by the authority;
15 providing for combination of state and federal
16 programs to facilitate the purposes of the
17 authority; establishing a beginning farmer loan
18 program; providing purposes of the loan
19 program; authorizing the authority to
20 participate in federal programs; requiring the
21 authority to provide for loan criteria by rule;
22 authorizing the authority to provide loan
23 requirements; authorizing the authority to make
24 loans to beginning farmers for agricultural
25 land and improvements and depreciable
26 agricultural property; authorizing the
27 authority to make loans to mortgage lenders and
28 other lenders; authorizing the authority to
29 purchase mortgage loans and secured loans from
30 mortgage lenders; providing powers of the
31 authority relating to loans; providing for the

1 issuance of bonds and notes by the authority;
2 authorizing the authority to establish bond
3 reserve funds; providing remedies of
4 bondholders and holders of notes; providing for
5 the pledging of bonds by the state; providing
6 that bonds and notes shall be considered legal
7 investments; providing requirements with
8 respect to funds of the authority; authorizing
9 examination of accounts by the Auditor General;
10 requiring a report; providing limitation of
11 liability for members of the authority;
12 requiring the assistance of state officers,
13 agencies, and departments; providing for
14 construction of the act; requiring disclosure
15 of specified conflicts of interest; prohibiting
16 certain participation in the event of a
17 conflict of interest; specifying conflicts of
18 interest with respect to the executive director
19 of the authority; providing exemption from
20 competitive bid laws; creating s. 159.8082,
21 F.S.; establishing the agricultural development
22 bond pool; amending s. 159.804, F.S.; providing
23 for specific allocations of state volume
24 limitations to the agricultural development
25 pool; amending s. 159.809; specifying
26 provisions for bond issuance reports not
27 received; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Sections 570.251, 570.252, 570.253,
2 570.254, 570.255, 570.256, 570.257, 570.258, 570.259, 570.260,
3 570.261, 570.262, 570.263, 570.264, 570.265, 570.266, 570.267,
4 570.268, 570.269, 570.270, 570.271, 570.272, 570.273, 570.274,
5 and 570.275, Florida Statutes, are created to read:

6 570.251 Short title.--Sections 570.251-570.275 may be
7 cited as the "Florida Agricultural Development Act."

8 570.252 Legislative findings.--

9 (1) The Legislature finds that the ability of
10 residents of the state to pursue agricultural enterprises or
11 enterprises related to agribusiness has been detrimentally
12 affected by causes and events beyond their control or the
13 control of the state, including treaty-supported foreign
14 competition, termination of long-established federal subsidy
15 programs, and a shortage of funds from private market sources
16 at rates of interest generally available under revenue bond
17 programs to nonagricultural industry. These conditions have
18 detrimentally affected the rural agriculture industry in this
19 state and have made the sale and purchase of agricultural land
20 by and among family farmers impossible in many parts of this
21 state. The ordinary operation of private enterprise has not
22 corrected this situation. Such conditions have worked to the
23 detriment of the economy and social welfare of the state and
24 threatens to destroy the basic fabric of rural agriculture,
25 such as the family farm and rural communities that depend on
26 agribusiness. The state's farm policy should enhance
27 opportunities for people to generate farm incomes comparable
28 to the incomes of other economic sectors. The United States
29 Congress has recognized the need to provide assistance to the
30 rural segment of the national economy and has instituted
31 programs to assist family farmers and agribusiness by means of

1 tax policy as well as loans, grants, technology transfers, and
2 credit enhancements to qualified state agencies. The
3 Legislature should also encourage, by all suitable means,
4 intellectual, scientific, and agricultural improvement in the
5 rural parts of this state. The public good is served by a
6 policy of facilitating access to capital by beginning farmers,
7 existing farmers, and agribusinesses unable to obtain capital
8 elsewhere. Therefore, the Legislature finds that conditions
9 exist in the state which require the creation of a body
10 politic having corporate power to issue notes, bonds, and
11 other evidences of indebtedness in order to make or acquire
12 loans for the acquisition or development of agricultural
13 lands, improvements, and facilities. All of the purposes
14 stated in this section are public purposes and uses for which
15 public moneys may be borrowed, expended, advanced, loaned, or
16 granted.

17 (2) The Legislature recognizes that many of the
18 programs approved by the United States Congress in the Federal
19 Agricultural Improvement and Reform Act of 1996 which can
20 supplement and enhance the authority's mission are being
21 implemented. Therefore, the authority is granted broad powers
22 to adopt rules to carry out the purposes set forth in this act
23 to maximize the benefits to the residents of this state from
24 all available federal, state, local, or private programs.

25 570.253 Definitions.--As used in this act, the term:

26 (1) "Agricultural improvements" means any
27 improvements, buildings, structures, or fixtures that are
28 suitable for use in farming, producing, or processing
29 agricultural products and are located on agricultural land in
30 this state. The term includes both any single-family dwelling
31 located on agricultural land which is or will be occupied by a

1 beginning farmer and structures attached to or incidental to
2 the use of the dwelling.

3 (2) "Agricultural land" means land in this state
4 suitable for use in farming, producing, or processing
5 agricultural products, specifically including lands so
6 designated by the Land Acquisition and Management Advisory
7 Council established under to s. 259.035.

8 (3) "Agricultural producer" means a person that
9 engages in the business of producing and marketing
10 agricultural produce in this state and includes a farmer.

11 (4) "Agricultural processor" means a person that
12 engages in the business of processing agricultural products
13 within this state, including, without limitation, agricultural
14 commodities, agricultural byproducts, biomass energy and
15 organic compost processing, and any and all products made or
16 derived from agricultural or biomass stock as defined by the
17 authority under rules adopted under chapter 120.

18 (5) "Authority" means the Florida Agricultural
19 Development Authority established in s. 570.254.

20 (6) "Bankhead-Jones Farm Tenant Act" means the act
21 cited as 50 Stat. 522 (1937), formerly codified as 7 U.S.C. s.
22 1000 et seq., repealed by Pub. L. No. 87-128 (1961).

23 (7) "Beginning farmer" means an individual,
24 partnership, corporation, limited liability company, limited
25 agricultural association as defined in s. 604.11, or trust
26 that engages in farming in this state, and includes:

27 (a) First-time farmers and family farmers as described
28 in s. 147(c)(2) of the Internal Revenue Code, as amended;

29 (b) Existing farmers who have moved, or who intend to
30 move, from existing agricultural activities to raising new or
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1 alternative agricultural crops under rules adopted by the
2 authority; and
3 (c) Such other farmers as are designated by rules
4 adopted by the authority.
5 (8) "Bonds" means bonds issued by the authority.
6 (9) "Depreciable agricultural property" means personal
7 property suitable for use in farming for which an income tax
8 deduction for depreciation is allowable in computing federal
9 income tax under the Internal Revenue Code.
10 (10) "Farming" means the cultivation of land in this
11 state for the production of agricultural crops, including
12 biomass and fiber crops, citrus crops, poultry and ratites,
13 eggs, milk, fruits, nuts, vegetables, flowers, ferns, or other
14 horticultural crops, grazing and forage production, swine,
15 livestock, farm-raised deer, aquaculture, hydroponics,
16 organics, silviculture, forest products, or other such
17 activities designated by the authority by rule.
18 (11) "Internal Revenue Code" means the Internal
19 Revenue Code of 1986, as amended.
20 (12) "Lending institution" means a bank, credit union,
21 trust company, mortgage company, national banking association,
22 savings and loan association, insurance company, any state or
23 federal governmental agency or instrumentality, including the
24 federal land bank or the consolidated farm service agency or
25 any of its local associations, or any other financial
26 institution or entity authorized to make farm loans in this
27 state.
28 (13) "Mortgage" means a mortgage, mortgage deed, deed
29 of trust, or other instrument creating a first lien, subject
30 only to title exceptions and encumbrances acceptable to the
31 authority, including any other mortgage liens of equal

1 standing with or subordinate to the mortgage loan retained by
2 a seller or conveyed to a mortgage lender, on a fee interest
3 in agricultural land and agricultural improvements.

4 (14) "Mortgage lender" means a bank, trust company,
5 mortgage company, national banking association, savings and
6 loan association, insurance company, or any state or federal
7 governmental agency or instrumentality, including, without
8 limitation, the federal land bank or any of its local
9 associations or any other financial institution or public or
10 private entity authorized to make mortgage loans or secured
11 loans in this state.

12 (15) "Mortgage loan" means a financial obligation
13 secured by a mortgage.

14 (16) "Note" means a bond anticipation note or other
15 obligation or evidence of indebtedness issued by the
16 authority.

17 (17) "Secured loan" means a financial obligation
18 secured by a chattel mortgage, security agreement, or other
19 instrument creating a lien on an interest in depreciable
20 agricultural property.

21 (18) "State agency" means any board, commission,
22 department, public officer, or other agency or authority of
23 the state.

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25 The authority may by rule define other terms applicable to
26 this act and may clarify the definitions in this section to
27 assure eligibility for funds, insurance, or guarantees
28 available under federal, state, or local laws, to assure
29 compliance with federal tax law and regulations under the
30 Internal Revenue Code and applicable state statutes, and to
31 carry out the public purposes of this act.

1 570.254 Establishment of authority; powers and duties;
2 board; earnings.--

3 (1) There is created the "Florida Agricultural
4 Development Authority," a public body corporate and politic,
5 for the purposes and with the powers set forth herein. Such
6 instrumentality, hereinafter referred to as "the authority"
7 shall have perpetual succession. For the purposes of
8 implementing the intent of ss. 570.251-570.275, the authority
9 shall be considered an instrumentality of the state, subject
10 to the jurisdiction of the state. Any conflict with respect to
11 that jurisdiction shall be resolved by the authority and
12 respective state agencies. The authority shall establish
13 programs that:

14 (a) Assist farmers, beginning farmers, and
15 agribusiness in purchasing, leasing, or otherwise acquiring
16 agricultural land, improvements, technology, and depreciable
17 agricultural property for farming.

18 (b) Promote diversification of the farm economy in
19 this state through the growth and development of new crops or
20 livestock not customarily grown or produced in this state or
21 that emphasize a vertical integration of agricultural products
22 produced or raised in this state into a finished agricultural
23 product or byproduct for consumption or use.

24 (c) Assist in financing operating expenses and
25 cash-flow requirements of farming.

26 (2) The authority shall be operated under the
27 supervision of the Commissioner of Agriculture, which
28 supervision may include, but is not limited to, assisting,
29 advising, and making recommendations regarding the operation,
30 financing, and programs of the authority. In assisting and
31 advising the authority, the Commissioner of Agriculture may

1 make appropriate staff of the department available to the
2 authority.

3 (3) The powers of the authority are vested in and
4 exercised by a board of seven members, including the
5 Commissioner of Agriculture or the commissioner's designee.
6 The Commissioner of Agriculture shall appoint the following
7 members of the board:

8 (a) One member from the Farm Credit System.

9 (b) One member from the Florida Rural Development
10 Committee.

11 (c) One member from the Florida Farm Bureau.

12 (d) One member who is an agricultural economist.

13 (e) One member with bonding or lending experience.

14 (f) One member at large.

15 (4) Initially, two members of the board shall be
16 appointed for a term of 4 years, two members for a term of 3
17 years, and two members for a term of 2 years. Thereafter, each
18 member shall be appointed for a 4-year term. A person
19 appointed to fill a vacancy may serve only for the unexpired
20 portion of the term. A member of the board is eligible for
21 reappointment. An appointed board member may be removed from
22 office by the Commissioner of Agriculture. An appointed board
23 member may also serve as a member of any other authority or
24 association.

25 (5) The members shall elect a chair and a vice chair
26 annually and other officers as necessary. The executive
27 director of the authority shall serve as secretary to the
28 board. Meetings of the board must be held at the call of the
29 chair, at the request of a majority of the membership of the
30 board, at the request of the Commissioner of Agriculture, or
31 at such times as may be prescribed by rules of the board.

1 Meetings may be held telephonically as prescribed by rules of
2 the board. Any meeting at which official acts are to be taken
3 or at which the public business of the authority is to be
4 transacted or discussed must be open and noticed to the
5 public.

6 (6) Four voting members of the board constitute a
7 quorum, and the affirmative vote of those present and voting
8 is necessary for any substantive action taken by the board. A
9 vacancy in the membership does not impair the right of a
10 quorum to exercise all rights and perform all duties of the
11 board.

12 (7) The members of the board shall not be entitled to
13 compensation for their services as members, but may receive
14 per diem and travel expenses as provided in s. 112.061 while
15 in performance of their duties.

16 (8) The members of the board shall give bond as
17 required by law for public officers.

18 (9) The net earnings of the authority, beyond that
19 necessary for retirement of its notes, bonds, or other
20 obligations or to implement authorized public purposes and
21 programs, may not inure to the benefit of any person other
22 than the state. Upon termination of the existence of the
23 authority, title to all property owned by the authority,
24 including any net earnings, vests in the department.

25 570.255 General powers.--The authority is granted
26 powers necessary to carry out its purposes and duties. It may:

27 (1) Issue negotiable bonds and notes to finance its
28 programs.

29 (2) Sue and be sued in its own name.

30 (3) Have and alter a corporate seal.

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- 1 (4) Make and alter bylaws for its management and
2 programs.
- 3 (5) Make and execute agreements, contracts, and other
4 instruments with any public or private entity, including any
5 federal governmental agency. With the approval of the
6 Commissioner of Agriculture, the authority may enter into
7 contracts with any firm of independent certified public
8 accountants to prepare an annual report on behalf of the
9 authority. The authority may enter into contracts with
10 mortgage lenders, insurance companies, or others for the
11 servicing of mortgages and secured loans. All political
12 subdivisions, including federal, state, and local agencies,
13 may enter into contracts and otherwise cooperate with the
14 authority.
- 15 (6) Lease, purchase, accept a gift or donation of, or
16 otherwise acquire, use, own, hold, improve, or deal in or
17 with, real or personal property, or sell, convey, mortgage,
18 pledge, lease, exchange, or otherwise dispose of any assets,
19 loans or equity interests acquired in the financing of
20 projects funded by the authority, or any other property or
21 interest in property, as the board considers necessary in the
22 transaction of its business. The authority may not carry out a
23 program of real estate investment.
- 24 (7) Procure insurance against any loss in connection
25 with its operations or property interests, including pool
26 insurance on any group of mortgages or secured loans.
- 27 (8) Fix and collect fees and charges for its services.
- 28 (9) Subject to an agreement with bondholders or
29 noteholders, invest or deposit its moneys in a manner
30 determined by the authority, notwithstanding the provisions of
31 chapters 215 and 216.

1 (10) Accept appropriations, gifts, grants, loans, or
2 other aid from public or private entities. A record of all
3 gifts or grants stating the type, amount, and donor must be
4 clearly set out in the authority's annual report along with
5 the record of other receipts.

6 (11) Provide public and private entities with
7 technical assistance, education, counseling, and grants to
8 assist the authority in matters related to the authority's
9 purposes.

10 (12) In cooperation with other local, state, or
11 federal governmental agencies or instrumentalities, conduct
12 studies of the agricultural needs of the beginning farmer,
13 agricultural producer, and processor and gather, compile, and
14 exchange with similar authorities and agencies in other states
15 data useful to facilitate decisionmaking.

16 (13) Contract with accountants, architects, attorneys,
17 economists, engineers, housing construction and finance
18 experts, and other advisors, or enter into contracts for such
19 services with local, state, or federal governmental agencies.

20 (14) Execute contracts, agreements, leases, and other
21 instruments with any person, partnership, corporation, limited
22 liability company, limited agricultural association, or trust,
23 including, without limitation, any federal, state, or local
24 governmental agency, and take actions necessary to accomplish
25 any purpose for which the authority was organized or to
26 exercise any power expressly granted to the authority.

27 (15) Adopt rules relating to:

28 (a) Programs under the jurisdiction of the authority,
29 including beginning farmer programs.

30 (b) Definitions.

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1 (c) Eligibility for programs, eligibility criteria and
2 determinations, objective criteria and guidelines, and forms
3 and documents required to implement the authority's programs.

4 570.256 Executive director.--

5 (1) The Commissioner of Agriculture shall appoint the
6 executive director of the authority who serves at the pleasure
7 of the commissioner.

8 (2) The executive director shall advise the authority
9 on matters relating to agricultural land and property and
10 finance; carry out all directives from the authority and the
11 commissioner; and hire and supervise the authority's staff
12 pursuant to the direction of the board and the commissioner.

13 (3) The executive director, as secretary of the
14 authority, is custodian of all books, documents, minute books,
15 seals, and papers filed with the authority. The executive
16 director may authorize duplication of all minutes and other
17 records and documents of the authority and shall give
18 certificates under the seal of the authority that the copies
19 are true copies and that all persons dealing with the
20 authority may rely upon the certificates.

21 570.257 Annual report.--

22 (1) The authority shall submit to the Governor, the
23 President of the Senate, the Speaker of the House of
24 Representatives, and the Auditor General, by February 15 of
25 each year, a report setting forth:

26 (a) The operations and accomplishments of the
27 authority.

28 (b) The authority's receipts and expenditures during
29 the fiscal year, in accordance with the classifications it
30 establishes for its operating and capital accounts.

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1 (c) The authority's assets and liabilities at the end
2 of its fiscal year and the status of reserve, special, and
3 other funds.

4 (d) A schedule of the authority's bonds and notes
5 outstanding at the end of its fiscal year, together with a
6 statement of the amounts redeemed and issued during its fiscal
7 year.

8 (e) A statement of the authority's proposed and
9 projected activities.

10 (f) Recommendations to the Legislature, as the
11 authority determines necessary.

12 (g) An analysis of the needs of beginning farmers and
13 other farmers in the state, as well as of agribusiness
14 projects funded by the authority.

15 (2) The annual report, together with the authority's
16 audited annual statements of financial condition for the
17 period prepared by the authority's certified public
18 accountants, including, specifically, their review and
19 comments on the authority's activities described in paragraphs
20 (1)(b), (c), and (d), must identify performance goals of the
21 authority and clearly indicate the extent of progress during
22 the reporting period in attaining the goals. When possible,
23 results must be expressed in terms of number of loans and
24 acres of agricultural land and establishment of new or
25 alternative agricultural crops for farmers and agribusiness in
26 the state.

27 570.258 Surplus moneys.--Moneys declared by the
28 authority to be surplus moneys that are not required to
29 service bonds and notes, to pay administrative expenses of the
30 authority, or to accumulate necessary operating or loss
31 reserves must be used by the authority to provide loans,

1 grants, subsidies, and other services or assistance to
2 beginning farmers or agricultural producers through any of the
3 programs authorized in this act.

4 570.259 Combination programs.--Programs authorized in
5 this act may be combined with any other programs authorized by
6 law or authorized under any federal program or programs of any
7 other state in order to facilitate the acquisition and
8 ownership of agricultural land and property by beginning or
9 existing farmers or to facilitate the implementation of soil
10 and water conservation practices and the implementation of new
11 and alternative agricultural crops in this state.

12 570.260 Beginning farmer loan program.--

13 (1) The authority shall develop a beginning farmer
14 loan program to facilitate the acquisition of agricultural
15 land and improvements and depreciable agricultural property by
16 beginning farmers. The authority shall exercise its powers in
17 order to provide financial assistance to beginning farmers in
18 the acquisition of agricultural land and improvements and
19 depreciable agricultural property. The authority may
20 participate in and cooperate with programs of the United
21 States Department of Agriculture Consolidated Farm Service
22 Agency, the federal land bank, or any other agency or
23 instrumentality of the Federal Government, or with any program
24 of any other state agency in the administration of the
25 beginning farmer loan program and in the making or purchasing
26 of bonds, notes, mortgages, or secured loans under this act.

27 (2) The authority may participate in any federal
28 programs designed to assist beginning farmers or in any
29 related federal or state programs.

30 (3) The authority shall by rule prescribe the criteria
31 upon which loans to or on behalf of a beginning farmer program

1 will be provided. These rules must comply with the
2 requirements for "first-time farmers" under s. 147 of the
3 Internal Revenue Code, as amended.

4 (4) The authority may provide in a mortgage or secured
5 loan made or purchased under this act that the loan may not be
6 assumed or that any interest in the agricultural land or
7 improvements or depreciable agricultural property may not be
8 leased, sold, or otherwise conveyed without its prior written
9 consent, and may provide a due-on-sale clause with respect to
10 the occurrence of any of the foregoing events without its
11 prior written consent. The authority may specify by rule the
12 grounds for permitted assumptions of a mortgage or for the
13 leasing, sale, or other conveyance of any interest in the
14 agricultural land or improvements. The authority shall,
15 however, reserve in a mortgage or secured loan its right to
16 raise the interest rate of the loan to the prevailing market
17 rate if the mortgage or secured loan is assumed by a farmer
18 who is already established in that field at the time of the
19 assumption of the loan.

20 (5) The authority may participate in any interest in
21 any mortgage or secured loan made or purchased under this act
22 with a mortgage or other lender. The participation interest
23 may be on a parity with the interest in the mortgage or
24 secured loan retained by the authority, equally and ratably
25 secured by the mortgage or securing agreement securing the
26 mortgage or secured loan.

27 570.261 Loans to beginning farmers.--

28 (1) The authority may make mortgage or secured loans,
29 including, but not limited to, mortgage or secured loans
30 insured, guaranteed, or otherwise secured by the Federal
31 Government or a federal governmental agency or

1 instrumentality, a state agency, or private mortgage insurers,
2 to beginning farmers to provide financing for agricultural
3 land and improvements or depreciable agricultural property.
4 (2) Mortgage or secured loans must contain terms and
5 provisions, including interest rates, and be in a form
6 established by rule of the authority. The authority may
7 require the beginning farmer to execute a note, loan
8 agreement, or other evidence of indebtedness and furnish
9 additional assurances and guarantees, including insurance,
10 reasonably related to protecting the security of the mortgage
11 or secured loan, as the authority deems necessary.
12 570.262 Loans to mortgage lenders and other lenders.--
13 (1) The authority may make loans to mortgage lenders
14 or other lenders on terms and conditions it determines are
15 reasonably related to protecting the security of the
16 authority's investment and to administering this act. Mortgage
17 lenders may borrow from the authority under the provisions of
18 this section and the rules of the authority.
19 (2) The authority shall require as a condition of each
20 loan to a mortgage lender that the mortgage lender, within a
21 reasonable period after receipt of the loan proceeds as the
22 authority prescribes by rule, enter into written commitments
23 to make and, within a reasonable period thereafter as the
24 authority prescribes by rule, disburse the loan proceeds in
25 new mortgage or secured loans to beginning farmers in an
26 aggregate principal amount of not less than the amount of the
27 loan. New mortgage or secured loans must have such terms and
28 conditions as the authority prescribes by rules and as are
29 reasonably related to implementing the purposes of this act.
30 570.263 Purchase of loans.--
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1 (1) The authority may purchase and make advance
2 commitments to purchase mortgage or secured loans from
3 mortgage lenders at prices and upon terms and conditions it
4 determines. The total purchase price for all mortgage or
5 secured loans that the authority commits to purchase from a
6 mortgage lender at any one time may not exceed the total of
7 the unpaid principal balances of the mortgage or secured loans
8 purchased. Mortgage lenders are authorized to sell mortgage or
9 secured loans to the authority under the provisions of this
10 section and the rules of the authority.

11 (2) The authority shall require as a condition of
12 purchase of mortgage or secured loans from mortgage lenders
13 that the mortgage lenders certify that the mortgage or secured
14 loans purchased are loans made to beginning farmers. Mortgage
15 or secured loans to be made by mortgage lenders must have such
16 terms and conditions as the authority prescribes by rule. The
17 authority may commit to purchase mortgage or secured loans
18 from mortgage lenders in advance of the time the loans are
19 made by mortgage lenders. The authority shall require as a
20 condition of a commitment that mortgage lenders certify in
21 writing that all mortgage or secured loans represented by the
22 commitment will be made to beginning farmers and that the
23 mortgage lender will comply with other requirements of the
24 authority.

25 570.264 Powers relating to loans.--Subject to any
26 agreement with bondholders or noteholders, the authority may
27 renegotiate a mortgage or secured loan or a loan to a mortgage
28 lender in default, waive a default or consent to the
29 modification of the terms of a mortgage or secured loan or a
30 loan to a mortgage lender, forgive or forbear all or part of a
31 mortgage or secured loan or a loan to a mortgage lender, and

1 commence, prosecute, and enforce a judgment in any action,
2 including, but not limited to, a foreclosure action, to
3 protect or enforce any right conferred upon it by law,
4 mortgage or secured loan agreement, contract, or other
5 agreement and, in connection with any action, bid for and
6 purchase the property or acquire or take possession of it,
7 complete, administer, pay the principal of and interest on any
8 obligations incurred in connection with the property, and
9 dispose of and otherwise deal with the property in a manner
10 the authority determines advisable to protect its interests.

11 570.265 Bonds and notes.--

12 (1) The authority may issue its negotiable bonds and
13 notes in principal amounts that, in the opinion of the
14 authority, are necessary to provide sufficient funds for
15 achievement of its corporate purposes, the payment of interest
16 on its bonds and notes, the establishment of reserves to
17 secure its bonds and notes, and all other expenditures of the
18 authority incident to and necessary or convenient to carry out
19 its purposes and powers. The bonds and notes are to be
20 investment securities and negotiable instruments within the
21 meaning of and for all purposes of the Uniform Commercial
22 Code.

23 (2) Bonds and notes are payable solely from the
24 moneys, assets, or revenues of the authority and as provided
25 in the agreement with bondholders or noteholders pledging any
26 particular moneys, assets, or revenues. Bonds or notes are not
27 an obligation of this state or any political subdivision of
28 this state other than the authority within the meaning of any
29 constitutional or statutory debt limitations, but are special
30 obligations of the authority payable solely from the sources
31 provided in this act, and the authority may not pledge the

1 credit or taxing power of this state or any political
2 subdivision of this state other than the authority or make its
3 debts payable out of any moneys except those of the authority.

4 (3) Bonds and notes must be authorized by a resolution
5 of the authority. A resolution authorizing the issuance of
6 bonds or notes may, however, delegate to an officer of the
7 authority the power to negotiate and fix the details of an
8 issue of bonds or notes by an appropriate certificate of the
9 authorized officer.

10 (4)(a) In addition to any notice required under the
11 Internal Revenue Code for federally tax exempt bonds, the
12 authority shall publish a notice of intention to issue bonds
13 or notes in a newspaper of general circulation published in
14 the state. The notice must include a statement of the maximum
15 amount of bonds or notes proposed to be issued and, in
16 general, what net revenues will be pledged to pay the bonds or
17 notes and interest thereon. An action may not be brought
18 questioning the legality of the bonds or notes or the power of
19 the authority to issue the bonds or notes or as to the
20 legality of any proceedings in connection with the
21 authorization or issuance of the bonds or notes after 60 days
22 from the date of publication of the notice.

23 (b) In lieu of paragraph (a), the authority may
24 validate any bonds issued pursuant to this section, as
25 provided in chapter 75. The validation complaint shall be
26 filed only in the circuit court for Leon County. The notice
27 required under s. 75.06 shall be published in Leon County, and
28 the complaint and order of the circuit court shall be served
29 only on the state attorney for the Second Judicial Circuit.

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1 The provisions of ss. 75.04(2) and 75.06(2) shall not apply to
2 a validation complaint filed as authorized in this subsection.
3 The validation of the bonds issued pursuant to this section
4 may be appealed to the Supreme Court, and such appeal shall be
5 handled on an expedited basis.

6 (5) Bonds and notes issued by the authority for
7 purposes of financing the beginning farmer loan program
8 provided in s. 570.260 are exempt from all taxation by the
9 state, including income taxes, documentary stamp taxes, and
10 intangible taxes, and interest earned on the bonds and notes
11 is deductible in determining net income for purposes of the
12 corporate income tax under chapter 220.

13 570.266 Reserve funds and appropriations.--The
14 authority may create and establish one or more special funds,
15 each to be known as a "bond reserve fund," and shall pay into
16 each bond reserve fund any moneys appropriated and made
17 available by the state for the purpose of the fund, any
18 proceeds of the sale of notes or bonds to the extent provided
19 in the resolutions of the authority authorizing their
20 issuance, and any other moneys that are available to the
21 authority for the purpose of the fund from any other sources.
22 Moneys held in a bond reserve fund, except as otherwise
23 provided in this act, must be used as required solely for the
24 payment of the principal of bonds secured in whole or in part
25 by the fund or of the sinking fund payments with respect to
26 the bonds, the purchase or redemption of the bonds, the
27 payment of interest on the bonds, or the payments of any
28 redemption premium required to be paid when the bonds are
29 redeemed prior to maturity.

30 570.267 Remedies of bondholders and noteholders.--
31

1 (1) If the authority defaults in the payment of
2 principal or interest on an issue of bonds or notes at
3 maturity or upon call for redemption and the default continues
4 for a period of 30 days, or, if the authority fails or refuses
5 to comply with the provisions of this act or defaults in an
6 agreement made with the holders of an issue of bonds or notes,
7 the holders of 25 percent in aggregate principal amount of
8 bonds or notes of the issue then outstanding, by instrument
9 filed in the office of the clerk of Leon County and proved or
10 acknowledged in the same manner as a deed to be recorded, may
11 appoint a trustee to represent the holders of the bonds or
12 notes for the purposes provided in this section.

13 Notwithstanding the foregoing, the authority shall not be
14 deemed in default hereunder if such default can be cured
15 within a reasonable period of time and if the authority in
16 good faith institutes curative action and diligently pursues
17 such action until the default has been corrected.

18 (2) The authority or any trustee appointed under the
19 indenture under which the bonds or notes are issued may, and
20 upon written request of the holders of 25 percent in aggregate
21 principal amount of the issue of bonds or notes then
22 outstanding, shall:

23 (a) Enforce all rights of the bondholders or
24 noteholders, including the right to require the authority to
25 carry out its agreements with the holders and to perform its
26 duties under this act.

27 (b) Bring suit upon the bonds or notes.

28 (c) By action, require the authority to account as if
29 it were the trustee of an express trust for the holders.

30 (d) By action, enjoin any acts or things that are
31 unlawful or in violation of the rights of the holders.

1 (e) Declare all the bonds or notes due and payable
2 and, if all defaults are made good, then with the consent of
3 the holders of 25 percent of the aggregate principal amount of
4 the issue of bonds or notes then outstanding annul the
5 declaration and its consequences.

6 (3) The trustee has powers necessary for the exercise
7 of functions specifically set forth or incident to the general
8 representation of bondholders or noteholders in the
9 enforcement and protection of their rights.

10 (4) Before declaring the principal of bonds or notes
11 due and payable, the trustee shall first give 30 days' notice
12 in writing to the Governor, to the authority, to the
13 Commissioner of Agriculture, and to the Attorney General.

14 (5) The circuit court has jurisdiction of any action
15 by the trustee on behalf of bondholders or noteholders. The
16 venue of the action is in Leon County.

17
18 The bondholders or noteholders may, to the extent provided in
19 the resolution to which the bonds or notes were issued or in
20 its agreement with the authority, enforce any of the remedies
21 in paragraphs (2)(a)-(e) or the remedies provided in such
22 proceedings or agreements for and on their own behalf.

23 570.268 Agreement of the state.--The state pledges and
24 agrees with the holders of any bonds or notes that the state
25 will not limit or alter the rights vested in the authority to
26 fulfill the terms of agreements made with the holders of such
27 bonds or notes or in any way impair the rights and remedies of
28 the holders of such bonds or notes until the bonds or notes,
29 together with the interest thereon, plus interest on unpaid
30 installments of interest, and all costs and expenses in
31 connection with an action by or on behalf of the holders of

1 such bonds are fully met and discharged. The authority may
2 include this pledge and agreement of the state in any
3 agreement with the holders of bonds or notes.

4 570.269 Bonds and notes as legal investments.--Bonds
5 and notes are securities in which public officers, state
6 departments and agencies, political subdivisions, pension and
7 retirement funds, insurance companies and other persons
8 carrying on an insurance business, banks, trust companies,
9 savings and loan associations, investment companies, credit
10 unions, and other persons carrying on a banking business,
11 administrators, executors, guardians, conservators, trustees
12 and other fiduciaries, and other persons authorized to invest
13 in bonds or other obligations of this state may legally invest
14 funds, including capital in their control or belonging to
15 them. Bonds and notes are also securities that may be
16 deposited with and received by public officers, state
17 departments and agencies, and political subdivisions for any
18 purpose for which the deposit of bonds or other obligations of
19 this state is authorized.

20 570.270 Moneys of the authority.--

21 (1) Moneys of the authority, except as otherwise
22 provided in this act, must be paid to the authority and must
23 be deposited in a bank or other financial institution
24 designated by the authority. The moneys of the authority may
25 be withdrawn on the order of the person authorized by the
26 authority. Deposits must be secured in the manner determined
27 by the authority. The Auditor General shall annually examine
28 the accounts and books of the authority, including its
29 receipts, disbursements, contracts, leases, sinking funds,
30 investments, and any other records and papers relating to its
31 financial standing.

1 (2) The authority may contract with holders of its
2 bonds or notes as to the custody, collection, security,
3 investment, and payment of moneys of the authority, of moneys
4 held in trust or otherwise for the payment of bonds or notes
5 and to carry out the contract. Moneys held in trust or
6 otherwise for the payment of bonds or notes or in any way to
7 secure bonds or notes and deposits of the moneys may be
8 secured in the same manner as moneys of the authority, and
9 banks and trust companies may give security for the deposits.

10 (3) Subject to the provisions of any contract with
11 bondholders or noteholders, the authority shall prescribe a
12 system of accounts.

13 (4) The authority shall submit to the Governor, the
14 Auditor General, the President of the Senate, and the Speaker
15 of the House of Representatives, within 30 days after receipt
16 by the authority, a copy of the report of every external
17 examination of the books and accounts of the authority other
18 than copies of the reports of examinations made by the Auditor
19 General.

20 570.271 Limitation of liability.--Members of the
21 authority and persons acting in its behalf, while acting
22 within the scope of their employment or agency, are not
23 subject to personal liability resulting from carrying out the
24 powers and duties given in this act, and the authority may
25 carry such insurance or other indemnification for any actions
26 arising out of such duties.

27 570.272 Assistance by state officers, agencies, and
28 departments.--State officers, departments, and agencies shall
29 provide services to the authority within their respective
30 functions as requested by the Commissioner of Agriculture.

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1 570.273 Liberal interpretation.--This act, being
2 necessary for the welfare of this state and its inhabitants,
3 must be liberally construed to effect its purposes.

4 570.274 Conflicts of interest.--

5 (1) If a member or employee of the authority has an
6 interest, either direct or indirect, in a contract to which
7 the authority is a party or in a mortgage lender or other
8 lender requesting a loan from or offering to sell mortgage or
9 secured loans to the authority, the interest must be disclosed
10 to the authority in writing and must be set forth in the
11 minutes of the authority. The member or employee having the
12 interest may not participate in an action by the authority
13 with respect to such contract or mortgage lender or other
14 lender.

15 (2) This section does not limit the right of a member,
16 officer, or employee of the authority to acquire an interest
17 in bonds or notes or limit the right of a member or employee
18 to have an interest in a bank, insurance company, or other
19 financial institution in which the funds of the authority are
20 deposited or which is acting as trustee or paying agent under
21 a trust indenture to which the authority is a party; nor does
22 this section, except as to the disclosures required by
23 subsection (1), preclude an insurance company or financial
24 institution in which an authority board member or employee has
25 an interest from placing insurance, funding bonds, or
26 acquiring or selling notes, mortgages, or other obligations of
27 the authority.

28 (3) The executive director may not have an interest in
29 a bank or other financial institution in which the funds of
30 the authority are deposited or which is acting as trustee or
31 paying agent under a trust indenture to which the authority is

1 a party. The executive director may not receive, in addition
2 to fixed salary or compensation, any money or valuable thing,
3 either directly or indirectly or through any substantial
4 interest in any other corporation or business unit, for
5 negotiating, procuring, recommending, or aiding in any
6 purchase or sale of property or loan made by the authority,
7 nor may the executive director be pecuniarily interested,
8 either as principal, co-principal, agent, or beneficiary,
9 either directly or indirectly or through any substantial
10 interest in any other corporation or business unit, in any
11 purchase, sale, or loan.

12 570.275 Exemption from competitive bid laws.--The
13 authority and all contracts made by it in carrying out its
14 public and essential governmental functions are exempt from
15 the laws of the state which provide for competitive bids in
16 connection with such contracts.

17 Section 2. Section 159.8082, Florida Statutes, is
18 created to read:

19 159.8082 Agricultural development bond pool.--

20 (1) There is established the agricultural development
21 bond pool. The agricultural development bond pool is
22 available solely to provide written confirmations for private
23 activity bonds to the Florida Agricultural Development
24 Authority to finance agricultural development as described in
25 ss. 570.251-570.275. Allocations from this pool must be
26 awarded for use on a statewide basis pursuant to the
27 procedures specified in s. 159.805, except that the provisions
28 of s. 159.805(2) and (3) do not apply. In issuing written
29 confirmations of allocations for agricultural development
30 projects, the division must use the agricultural development
31 bond pool. If allocation is not available from the

1 agricultural development bond pool, the division must issue
2 written confirmations of allocations for agricultural
3 development projects under s. 159.806 or s. 159.807, in that
4 order. For the purposes of determining priority within a
5 regional allocation pool or the state allocation pool, notices
6 of intent to issue bonds for agricultural development projects
7 to be issued from a regional allocation pool or the state
8 allocation pool are considered to have been received by the
9 division at the time it is determined by the division that the
10 agricultural development bond pool is unavailable to issue
11 confirmation for such agricultural development project.

12 (2) Any written confirmation issued by the director
13 pursuant to this section has no effect unless the bonds to
14 which such confirmation applies have been issued by the
15 Florida Agricultural Development Authority and written notice
16 of such issuance has been provided to the director on or
17 before November 15, unless a carryforward has been granted for
18 the allocation.

19 Section 3. Section 159.804, Florida Statutes, is
20 amended to read:

21 159.804 Allocation of state volume limitation.--The
22 division shall annually determine the amount of private
23 activity bonds permitted to be issued in this state under the
24 Code and shall make such information available upon request to
25 any person or agency. The total amount of private activity
26 bonds authorized to be issued in this state pursuant to the
27 Code shall be initially allocated as follows on January 1 of
28 each year:

29 (1)(a) On January 1, 1993, the first \$75 million of
30 the state volume limitation shall be allocated to the
31 manufacturing facility pool established pursuant to s.

1 159.8081. This allocation shall be increased in subsequent
2 years in increments of \$7.5 million as follows: On January 1
3 of each year, if at least 75 percent of the preceding year's
4 allocation under this subsection was used to issue bonds by
5 November 15 of that year, the allocation to the pool for the
6 current year must equal the sum of the amount that was
7 allocated to the pool in the preceding year plus an additional
8 \$7.5 million. If, however, 75 percent of the preceding year's
9 allocation was not used to issue bonds by November 15, the
10 allocation to the pool for the current year must be the same
11 amount as that allocated to the pool in the preceding year.

12 (b) On January 1, 2000, the next \$10 million of the
13 state volume limitation must be allocated to the agricultural
14 development pool established under s. 159.8082. This
15 allocation must be increased in subsequent years in increments
16 of \$2 million as follows: on January 1 of each year, if at
17 least 75 percent of the preceding year's allocation under this
18 subsection was used to issue bonds by November 15 of that
19 year, the allocation to the pool for the current year must
20 equal the sum of the amount that was allocated to the pool in
21 the preceding year plus an additional \$2 million; if, however,
22 75 percent of the preceding year's allocation was not used to
23 issue bonds by November 15, the allocation to the pool for the
24 current year must be the same amount as that allocated to the
25 pool in the preceding year.

26 (c)~~(b)~~ If on January 1 of any year, under federal law,
27 bonds for manufacturing facilities or agricultural development
28 no longer require or are eligible for an allocation pursuant
29 to s. 146 of the Code or if a separate volume cap is
30 established for agricultural development bonds under federal
31 law, the allocation of the state volume limitation in the

1 manufacturing facility pool or agricultural development pool,
2 or both, if applicable shall be divided among the remaining
3 pools in the following manner: 50 percent to be shared by the
4 16 regions for use in the manner prescribed in subsection (2);
5 25 percent for use by the Florida Housing Finance Agency in
6 the manner prescribed in subsection (3); 5 percent for use in
7 the state allocation pool in the manner prescribed in
8 subsection (4); and 20 percent for use in the Florida First
9 Business allocation pool in the manner prescribed in
10 subsection (5).

11 (d)~~(c)~~ If the state volume limitation imposed on
12 private activity bonds under s. 146 of the Code is decreased,
13 the amount allocated to the manufacturing facility pool shall
14 be decreased in proportion to the percentage the state volume
15 limitation is decreased.

16 (2)(a) Fifty percent of the state volume limitation
17 remaining after the allocations ~~allocation~~ made pursuant to
18 subsection (1) shall be allocated among the regions
19 established in paragraph (b) for use by all agencies whose
20 boundaries are coterminous with or contained within each
21 region. The volume limitation for each regional allocation
22 pool must be an amount that bears the same ratio to 50 percent
23 of the state volume limitation remaining after the allocation
24 made pursuant to subsection (1) for such calendar year as the
25 population of the region bears to the population of the entire
26 state.

27 (b) The following regions are established for the
28 purposes of this allocation:

29 1. Region 1 consisting of Bay, Escambia, Holmes,
30 Okaloosa, Santa Rosa, Walton, and Washington Counties.

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- 1 2. Region 2 consisting of Calhoun, Franklin, Gadsden,
2 Gulf, Jackson, Jefferson, Leon, Liberty, and Wakulla Counties.
- 3 3. Region 3 consisting of Alachua, Bradford, Columbia,
4 Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee,
5 Taylor, and Union Counties.
- 6 4. Region 4 consisting of Baker, Clay, Flagler,
7 Nassau, Putnam, and St. Johns Counties.
- 8 5. Region 5 consisting of Citrus, Hernando, Levy,
9 Marion, Pasco, and Sumter Counties.
- 10 6. Region 6 consisting of Brevard, Lake, Osceola,
11 Seminole, and Volusia Counties.
- 12 7. Region 7 consisting of DeSoto, Hardee, Highlands,
13 Manatee, Okeechobee, and Polk Counties.
- 14 8. Region 8 consisting of Charlotte, Collier, Glades,
15 Hendry, Lee, Monroe, and Sarasota Counties.
- 16 9. Region 9 consisting of Indian River, Martin, and
17 St. Lucie Counties.
- 18 10. Region 10 consisting of Broward County.
- 19 11. Region 11 consisting of Dade County.
- 20 12. Region 12 consisting of Duval County.
- 21 13. Region 13 consisting of Hillsborough County.
- 22 14. Region 14 consisting of Orange County.
- 23 15. Region 15 consisting of Palm Beach County.
- 24 16. Region 16 consisting of Pinellas County.
- 25 (3)(a) Twenty-five percent of the state volume
26 limitation remaining after the allocations ~~allocation~~ made
27 pursuant to subsection (1) shall be allocated to the Florida
28 Housing Finance Agency for use in connection with the issuance
29 of housing bonds of that agency or its assigns.
- 30 (b) The Florida Housing Finance Agency need not apply
31 to the division for an allocation of its volume limitation

1 granted under paragraph (a) for bonds it issues prior to July
2 1 of any year and is not subject to the fee required under s.
3 159.811. However, for bonds it intends to issue between July
4 1 and September 29 of any year, utilizing the allocation
5 granted under paragraph (a), the Florida Housing Finance
6 Agency must submit a notice of intent to issue to the division
7 not later than June 30 of such year, and a written
8 confirmation of allocation shall be granted if a sufficient
9 amount of that allocation is available.

10 (c) The Florida Housing Finance Agency, in its
11 discretion, may, prior to July 1 of each year, assign any
12 portion of the Florida Housing Finance Agency allocation to
13 any agency for the issuance of housing bonds, taking into
14 consideration the ability of the agency to timely issue such
15 bonds, the need and public purpose to be served by the issue,
16 and the ability of the agency to comply with the requirements
17 of federal and state law. Such assignment is not effective
18 until receipt by the division of notification of the
19 assignment. A separate allocation from the division is not
20 needed for bonds issued prior to July 1 utilizing such an
21 assignment. An agency that intends to utilize such an
22 assignment to issue housing bonds between July 1 and September
23 29 of any year must submit a notice of intent to issue to the
24 division for the amount of such assignment not later than June
25 30, and a written confirmation of allocation shall be granted
26 if a sufficient amount of the allocation under paragraph (a)
27 is available. Any amounts representing assignments of which
28 the division had been notified by the Florida Housing Finance
29 Agency but for which an issuance report or notice of intent to
30 issue pursuant to this subsection has not been received by the
31

1 division by June 30 of any year shall be reallocated to the
2 state allocation pool on July 1 of that year.

3 (4) Five percent of the state volume limitation
4 remaining after the allocations ~~allocation~~ made pursuant to
5 subsection (1) shall be allocated to the state allocation
6 pool, for use as provided in s. 159.807.

7 (5) Twenty percent of the state volume limitation
8 remaining after the allocations ~~allocation~~ made pursuant to
9 subsection (1) shall be allocated to the Florida First
10 Business allocation pool, to be used as provided in s.
11 159.8083.

12 Section 4. Subsection (3) of section 159.809, Florida
13 Statutes, is amended to read:

14 159.809 Recapture of unused amounts.--

15 (3) On November 16 of each year, any portion of the
16 initial allocation, made pursuant to s. 159.804(1), s.
17 159.804(5), or subsection (1) or subsection (2), other than as
18 provided in ss. 159.8082 and ~~s. 159.8083~~, for which an
19 issuance report for bonds utilizing such an allocation has not
20 been received by the division prior to that date shall be
21 added to the state allocation pool.

22 Section 5. This act shall take effect July 1, 1999.
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HOUSE SUMMARY

Creates the "Florida Agricultural Development Act."
Provides legislative findings. Defines terms for purposes of the act. Establishes the Florida Agricultural Development Authority for the purpose of undertaking programs to assist farmers, beginning farmers, and agribusiness concerns in the purchase, lease, and acquisition of agricultural land, improvements, and technology, programs aimed at soil and water conservation, and programs that promote diversification of Florida's farm economy. Provides powers and duties of the authority. Provides for membership of a board. Provides for terms of board members and for organization of the board. Provides for the appointment of an executive director and specifies duties. Requires an annual report. Provides for the use of surplus moneys by the authority. Provides for combination of state and federal programs to facilitate the purposes of the authority.

Establishes a beginning farmer loan program. Provides purposes of the loan program. Authorizes the authority to participate in federal programs. Requires the authority to provide for loan criteria by rule. Authorizes the authority to provide loan requirements. Authorizes the authority to make loans to beginning farmers for agricultural land and improvements and depreciable agricultural property. Authorizes the authority to make loans to mortgage lenders and other lenders. Authorizes the authority to purchase mortgage loans and secured loans from mortgage lenders. Provides powers of the authority relating to loans.

Provides for the issuance of bonds and notes by the authority. Authorizes the authority to establish bond reserve funds. Provides remedies of bondholders and holders of notes.

Provides requirements with respect to funds of the authority. Authorizes examination of accounts by the Auditor General. Requires a report. Provides limitation of liability for members of the authority. Requires the assistance of state officers, agencies, and departments. Requires disclosure of specified conflicts of interest and prohibits certain participation in the event of a conflict of interest. Specifies conflicts of interest with respect to the executive director of the authority. Provides exemption from competitive bidding laws.

Establishes the agricultural development bond pool to provide written confirmations for private activity bonds to the authority to finance agricultural development. Prescribes procedures for allocations from the pool. Provides for future increases in the state volume

1 | limitation allocated to the pool.
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