

By the Committees on Fiscal Policy; Agriculture and Consumer Services; and Senator Thomas

309-1904-00

1                                   A bill to be entitled  
2           An act relating to protection of agriculture  
3           and horticulture; amending s. 581.091, F.S.;  
4           clarifying provisions with respect to a  
5           requirement to immediately inform the  
6           Department of Agriculture and Consumer Services  
7           upon receipt or possession of any noxious weed,  
8           plant, plant product, or regulated article  
9           infected or infested with any plant pest,  
10          declared to be a threat to the state's  
11          agricultural and horticultural interests, and  
12          to hold such weed, plant, or article for  
13          inspection; providing that it is unlawful to  
14          fail to disclose information regarding any  
15          infected or infested plant, plant product,  
16          regulated article, or noxious weed; amending s.  
17          581.184, F.S.; defining the terms "infected or  
18          infested" and "exposed to infection" for  
19          purposes of the act; requiring the department  
20          to develop a risk-assessment program for  
21          commercial plantings; requiring the department  
22          to develop a statewide program of  
23          decontamination to prevent and limit the spread  
24          of citrus canker disease; providing program  
25          requirements; authorizing the department to  
26          develop specified compliance agreements and  
27          other agreements; requiring county sheriffs,  
28          upon request of the department, to provide  
29          assistance in obtaining access to private  
30          property for the purpose of enforcing citrus  
31          canker eradication efforts; specifying

1           responsibilities of the sheriff; authorizing  
2           the department to reimburse the sheriff for  
3           reasonable costs of implementing the provisions  
4           of the act; providing for satisfaction of  
5           specified notice requirements; amending s.  
6           193.461, F.S.; providing for classification of  
7           lands subject to eradication or quarantine  
8           programs; amending s. 298.005, F.S.; redefining  
9           the term "owner" for purposes of ch. 298, F.S.,  
10          relating to drainage and water control;  
11          amending s. 298.11, F.S.; providing for  
12          assessable land to entitle a landowner to vote  
13          in an election of supervisors; amending s.  
14          298.12, F.S.; limiting eligibility to vote in  
15          such election to landowners whose assessments  
16          are paid for the previous year; amending s.  
17          298.22, F.S.; authorizing water control  
18          districts to construct and operate facilities  
19          to control and prevent agricultural pests and  
20          diseases; amending s. 298.225, F.S.; specifying  
21          those amendments that constitute insubstantial  
22          amendments to a water control plan; providing  
23          an effective date.

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25           WHEREAS, the citrus industry is very important to  
26          Florida's economy, generating \$8 billion in revenue and  
27          providing nearly 100,000 jobs for Floridians, and

28           WHEREAS, every citizen in the state benefits from  
29          property taxes, sales taxes, and other revenues generated by  
30          the citrus industry, and

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1           WHEREAS, Florida is known worldwide for its fresh and  
2 processed citrus, and

3           WHEREAS, an emergency exists in the South Florida area  
4 regarding the spread of citrus canker, a bacterial disease  
5 that damages fruit, weakens and eventually kills trees, is  
6 highly contagious, and the presence of which causes  
7 quarantines to be imposed on the shipment of fresh fruit, and

8           WHEREAS, joint state and federal attempts to eradicate  
9 citrus canker have so far been unsuccessful, and

10          WHEREAS, despite destruction of citrus trees infected  
11 with citrus canker and of citrus trees within 125 feet of  
12 canker-infected trees, citrus canker has spread at an alarming  
13 rate and is now present throughout Miami-Dade County and  
14 Broward County, and

15          WHEREAS, if not eradicated quickly, citrus canker will  
16 spread to other parts of the state and may destroy the citrus  
17 industry and dooryard citrus throughout Florida, and

18          WHEREAS, recent scientific studies have shown that  
19 citrus trees as far as 1,900 feet from infected citrus trees  
20 will develop the disease from wind-blown rain or by other  
21 means, and

22          WHEREAS, the Third District Court of Appeals, in Luis  
23 Varela, et al. v. State of Florida, Department of Agriculture  
24 and Consumer Services, DCA Case No. 98-2966, held that citrus  
25 trees within a certain radius of infection (originally thought  
26 to be 125 feet but now scientifically determined to be at  
27 least 1,900 feet) necessarily harbor the citrus canker  
28 bacteria and thus are diseased and have no value, NOW,  
29 THEREFORE,

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

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Section 1. Section 581.091, Florida Statutes, is amended to read:

581.091 Noxious weeds and infected plants or regulated articles; sale or distribution; receipt; information to department; withholding information.--

(1) It is unlawful for any person to knowingly sell, offer for sale, or distribute any noxious weed, or any plant or plant product or regulated article infested or infected with any plant pest declared, by rule of the department, to be a public nuisance or a threat to the state's agricultural and horticultural interests.

(2) Any person who knows or reasonably should know ~~that such person possesses or has received~~ knowingly receives any noxious weed or any plant, plant product, or regulated article sold, given away, carried, shipped, or delivered for carriage or shipment ~~within this state,~~ in violation of the provisions of this chapter or the rules adopted thereunder shall immediately inform the department and isolate and hold the weed, plant, plant product, or other thing unopened or unused subject to inspection or other disposition as may be provided by the department.

(3) It is unlawful for any person to fail to disclose ~~knowingly conceal~~ or ~~willfully~~ withhold available information regarding any infected or infested plant, plant product, regulated article, or noxious weed.

Section 2. Section 581.184, Florida Statutes, is amended to read:

581.184 Adoption ~~Promulgation~~ of rules; citrus canker eradication; voluntary destruction agreements; buffer zone.--

(1) As used in this section, the term:

1           (a) "Infected or infested" means citrus trees  
2 harboring the citrus canker bacteria and exhibiting visible  
3 symptoms of the disease.

4           (b) "Exposed to infection" means citrus trees  
5 harboring the citrus canker bacteria due to their proximity,  
6 within a 1,900-foot radius, to infected citrus trees, and  
7 which do not yet exhibit visible symptoms of the disease but  
8 which will develop symptoms over time, at which point such  
9 trees will have infected other citrus trees.

10           ~~(2)(1)~~ In addition to the powers and duties set forth  
11 under this chapter, the department is directed to adopt rules  
12 specifying facts and circumstances that, if present, would  
13 require the destruction of plants for purposes of eradicating,  
14 controlling, or preventing the dissemination of citrus canker  
15 disease in the state. In addition, the department is directed  
16 to adopt rules regarding the conditions under which citrus  
17 plants can be grown, moved, and planted in this state as may  
18 be necessary for the eradication, control, or prevention of  
19 the dissemination of citrus canker. Such rules shall be in  
20 effect for any period during which, in the judgment of the  
21 Commissioner of Agriculture, there is the threat of the spread  
22 of citrus canker disease in the state. Such rules may provide  
23 for the conduct of any activity regulated by such rules  
24 subject to an agreement by persons wishing to engage in such  
25 activity to voluntarily destroy, at their own expense, citrus  
26 plants declared by the department to be imminently dangerous  
27 by reason of being infected or infested with citrus canker or  
28 exposed to infection and likely to communicate same. The  
29 terms of such agreement may also require the destruction of  
30 healthy plants under specified conditions. Any such  
31 destruction shall be done after reasonable notice in a manner

1 pursuant to and under conditions set forth in the agreement.  
2 Such agreements may include releases and waivers of liability  
3 and may require the agreement of other persons.

4 (3)~~(2)~~ The department, pursuant to s. 581.031(15) and  
5 (17), may create a citrus canker host-free buffer area,  
6 delineated by department rule, to retard the spread of citrus  
7 canker from known infected areas. In addition, the department  
8 shall develop a compensation plan for the trees removed from  
9 the buffer area. Compensation for the trees removed from the  
10 buffer area is subject to annual legislative appropriation.

11 (4) The department shall develop by rule and implement  
12 a risk assessment program for commercial plantings.

13 (5) The department shall develop by rule, pursuant to  
14 ss. 120.54 and 120.536(1), a statewide program of  
15 decontamination to prevent and limit the spread of citrus  
16 canker disease. Such program shall address the application of  
17 decontamination procedures and practices to all citrus plants  
18 and plant products, vehicles, equipment, machinery, tools,  
19 objects, and persons who could in any way spread or aid in the  
20 spreading of citrus canker in this state. The department may  
21 develop compliance and other agreements which it determines  
22 can aid in the carrying out of the purposes of this section,  
23 and enter into such agreements with any person or entity.

24 (6) Upon request of the department, the sheriff of  
25 each county in the state shall provide assistance in obtaining  
26 access to private property for the purpose of enforcing the  
27 provisions of this section. The sheriff shall be responsible  
28 for maintaining public order during the eradication process  
29 and protecting the safety of department employees,  
30 representatives, and agents charged with implementing and  
31 enforcing the provisions of this section. The department may

1 reimburse the sheriff for the reasonable costs of implementing  
2 the provisions of this subsection.

3 (7) Posting of an order on the property on which  
4 citrus trees are to be cut pursuant to the citrus canker  
5 eradication program shall meet the notice requirement of s.  
6 120.569(1).

7 Section 3. Section 193.461, Florida Statutes, is  
8 amended to read:

9 193.461 Agricultural lands; classification and  
10 assessment; mandated eradication or quarantine program.--

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

14 (2) Any landowner whose land is denied agricultural  
15 classification by the property appraiser may appeal to the  
16 value adjustment board. The property appraiser shall notify  
17 the landowner in writing of the denial of agricultural  
18 classification on or before July 1 of the year for which the  
19 application was filed. The notification shall advise the  
20 landowner of his or her right to appeal to the value  
21 adjustment board and of the filing deadline. The board may  
22 also review all lands classified by the property appraiser  
23 upon its own motion. The property appraiser shall have  
24 available at his or her office a list by ownership of all  
25 applications received showing the acreage, the full valuation  
26 under s. 193.011, the valuation of the land under the  
27 provisions of this section, and whether or not the  
28 classification requested was granted.

29 (3)(a) No lands shall be classified as agricultural  
30 lands unless a return is filed on or before March 1 of each  
31 year. The property appraiser, before so classifying such

1 lands, may require the taxpayer or the taxpayer's  
2 representative to furnish the property appraiser such  
3 information as may reasonably be required to establish that  
4 such lands were actually used for a bona fide agricultural  
5 purpose. Failure to make timely application by March 1 shall  
6 constitute a waiver for 1 year of the privilege herein granted  
7 for agricultural assessment. However, an applicant who is  
8 qualified to receive an agricultural classification who fails  
9 to file an application by March 1 may file an application for  
10 the classification and may file, pursuant to s. 194.011(3), a  
11 petition with the value adjustment board requesting that the  
12 classification be granted. The petition may be filed at any  
13 time during the taxable year on or before the 25th day  
14 following the mailing of the notice by the property appraiser  
15 as provided in s. 194.011(1). Notwithstanding the provisions  
16 of s. 194.013, the applicant must pay a nonrefundable fee of  
17 \$15 upon filing the petition. Upon reviewing the petition, if  
18 the person is qualified to receive the classification and  
19 demonstrates particular extenuating circumstances judged by  
20 the property appraiser or the value adjustment board to  
21 warrant granting the classification, the property appraiser or  
22 the value adjustment board may grant the classification. The  
23 owner of land that was classified agricultural in the previous  
24 year and whose ownership or use has not changed may reapply on  
25 a short form as provided by the department. The lessee of  
26 property may make original application or reapply using the  
27 short form if the lease, or an affidavit executed by the  
28 owner, provides that the lessee is empowered to make  
29 application for the agricultural classification on behalf of  
30 the owner and a copy of the lease or affidavit accompanies the  
31 application. A county may, at the request of the property



1 appraiser and by a majority vote of its governing body, waive  
2 the requirement that an annual application or statement be  
3 made for classification of property within the county after an  
4 initial application is made and the classification granted.

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

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

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

28 (d) When property receiving an agricultural  
29 classification contains a residence under the same ownership,  
30 the portion of the property consisting of the residence and  
31 curtilage must be assessed separately, pursuant to s. 193.011,

1 to qualify for the assessment limitation set forth in s.  
2 193.155. The remaining property may be classified under the  
3 provisions of paragraphs (a) and (b).

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

6 1. Land diverted from an agricultural to a  
7 nonagricultural use.

8 2. Land no longer being utilized for agricultural  
9 purposes.

10 3. Land that has been zoned to a nonagricultural use  
11 at the request of the owner subsequent to the enactment of  
12 this law.

13 (b) The board of county commissioners may also  
14 reclassify lands classified as agricultural to nonagricultural  
15 when there is contiguous urban or metropolitan development and  
16 the board of county commissioners finds that the continued use  
17 of such lands for agricultural purposes will act as a  
18 deterrent to the timely and orderly expansion of the  
19 community.

20 (c) Sale of land for a purchase price which is 3 or  
21 more times the agricultural assessment placed on the land  
22 shall create a presumption that such land is not used  
23 primarily for bona fide agricultural purposes. Upon a showing  
24 of special circumstances by the landowner demonstrating that  
25 the land is to be continued in bona fide agriculture, this  
26 presumption may be rebutted.

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

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

- 8 1. The quantity and size of the property;
- 9 2. The condition of the property;
- 10 3. The present market value of the property as  
11 agricultural land;
- 12 4. The income produced by the property;
- 13 5. The productivity of land in its present use;
- 14 6. The economic merchantability of the agricultural  
15 product; and

16 7. Such other agricultural factors as may from time to  
17 time become applicable, which are reflective of the standard  
18 present practices of agricultural use and production.

19 (b) Notwithstanding any provision relating to annual  
20 assessment found in s. 192.042, the property appraiser shall  
21 rely on 5-year moving average data when utilizing the income  
22 methodology approach in an assessment of property used for  
23 agricultural purposes.

24 (c) For purposes of the income methodology approach to  
25 assessment of property used for agricultural purposes,  
26 irrigation systems, including pumps and motors, physically  
27 attached to the land shall be considered a part of the average  
28 yields per acre and shall have no separately assessable  
29 contributory value.

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1 (d) In years in which proper application for  
2 agricultural assessment has not been made, the land shall be  
3 assessed under the provisions of s. 193.011.

4 (7) Lands classified for assessment purposes as  
5 agricultural lands which are taken out of production by any  
6 state or federal eradication or quarantine program shall  
7 continue to be classified as agricultural lands for the  
8 duration of such program. Lands under these programs which are  
9 converted to fallow, or otherwise nonincome-producing uses  
10 shall continue to be classified as agricultural lands and  
11 shall be assessed at a de minimis value of no more than \$50  
12 per acre, on a single year assessment methodology; however,  
13 lands converted to other income-producing agricultural uses  
14 permissible under such programs shall be assessed pursuant to  
15 this section. Land under a mandated eradication or quarantine  
16 program which is diverted from an agricultural to a  
17 nonagricultural use shall be assessed under the provisions of  
18 s. 193.011.

19 Section 4. Subsection (2) of section 298.005, Florida  
20 Statutes, is amended to read:

21 298.005 Definitions.--As used in this chapter, the  
22 term:

23 (2) "Owner" means the owner of the freehold estate,  
24 subject to assessment pursuant to this chapter,as appears by  
25 the deed record. The term does not include reversioners,  
26 remaindermen, or mortgagees, who are not to be counted and  
27 need not be notified by publication or served by process, but  
28 are to be represented by the present owners of the freehold  
29 estate in any proceeding under this chapter.

30 Section 5. Subsection (2) of section 298.11, Florida  
31 Statutes, is amended to read:

1           298.11 Landowners' meetings; election of board of  
2 supervisors; duties of Department of Environmental  
3 Protection.--

4           (2) The landowners, when assembled, shall organize by  
5 the election of a chair and secretary of the meeting, who  
6 shall conduct the election. At the election, each and every  
7 acre of assessable land in the district shall represent one  
8 share, and each owner shall be entitled to one vote in person  
9 or by proxy in writing duly signed, for every acre of  
10 assessable land owned by him or her in the district, and the  
11 three persons receiving the highest number of votes shall be  
12 declared elected as supervisors. The appointment of proxies  
13 shall comply with s. 607.0722. Landowners owning less than 1  
14 assessable acre in the aggregate shall be entitled to one  
15 vote. Landowners with more than 1 assessable acre are entitled  
16 to one additional vote for any fraction of an acre greater  
17 than 1/2 acre, when all of the landowners' acreage has been  
18 aggregated for purposes of voting. The landowners shall at  
19 such election determine the length of the terms of office of  
20 each supervisor so elected by them, which shall be  
21 respectively 1, 2, and 3 years, and they shall serve until  
22 their successors shall have been elected and qualified.

23           Section 6. Subsection (1) of section 298.12, Florida  
24 Statutes, is amended to read:

25           298.12 Annual election of supervisors; term of office;  
26 vacancy.--

27           (1) Every year in the same month after the time for  
28 the election of the first board of supervisors, it shall call  
29 a meeting of the landowners in the district in the same manner  
30 as is provided for in s. 298.11, and the owners of land in  
31 such district shall meet at the stated time and place and

1 elect one supervisor. Owners whose assessments have not been  
2 paid for the previous year are not entitled to vote.~~therefor,~~  
3 ~~or~~ In case of their failure to elect, the Governor shall  
4 appoint such supervisor, who shall hold the supervisor's  
5 office for 3 years or until his or her successor is elected  
6 and qualified; and in case of a vacancy in any office of  
7 supervisor elected by the landowners, the remaining  
8 supervisors or, if they fail to act within 30 days, the  
9 Governor may fill such vacancy until the next annual meeting,  
10 when a successor shall be elected for the unexpired term.

11 Section 7. Subsection (11) is added to section 298.22,  
12 Florida Statutes, to read:

13 298.22 Powers of supervisors.--The board of  
14 supervisors of the district has full power and authority to  
15 construct, complete, operate, maintain, repair, and replace  
16 any and all works and improvements necessary to execute the  
17 water control plan. Subject to the applicable provisions of  
18 chapter 373 or chapter 403, the board of supervisors:

19 (11) May construct and operate facilities for the  
20 purpose of controlling and preventing the spread or  
21 introduction of agricultural pests and diseases.

22 Section 8. Subsection (8) of section 298.225, Florida  
23 Statutes, is amended to read:

24 298.225 Water control plan; plan development and  
25 amendment.--

26 (8) If the preparation of a water control plan or  
27 amendment under this section does not result in revision of  
28 the district's current plan or require the alteration or  
29 increase of any levy of assessments or taxes beyond the  
30 maximum amount previously authorized by general law, special  
31 law, or judicial proceeding, a change in the use of said

1 assessments or taxes, or substantial change to district  
2 facilities, the provisions of s. 298.301(2)-(9) do not apply  
3 to the plan adoption process. This section and s. 298.301 do  
4 not apply to minor, insubstantial amendments to district plans  
5 ~~authorized by special law.~~ Minor, insubstantial amendments  
6 include amendments to the water control plan which replace,  
7 relocate, reconstruct, or improve and upgrade district  
8 facilities and operations consistent with the adopted water  
9 control plan, but which do not require increasing assessments  
10 beyond the maximum amount authorized by law.

11 Section 9. This act shall take effect upon becoming a  
12 law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
15 COMMITTEE SUBSTITUTE FOR  
16 CS for SB 1114

17 Requires the Department of Agriculture and Consumer Services  
18 to develop a rule to implement a risk assessment program for  
canker eradication for commercial plantings.

19 Allows landowners, under certain circumstances, to retain  
20 their agricultural status for property assessment while their  
land is under any agricultural eradication or quarantine  
21 program.

22 Revises the definition of owner to specify that an owner is  
subject to assessment for a Water Control District.

23 Specifies that each acre of assessable land shall represent  
24 one share and one vote for a Water Control District.

25 Clarifies that only landowners who have paid their Water  
Control District assessments may vote for the district  
26 supervisor.

27 Authorizes Water Control Districts to construct and operate  
28 facilities to prevent canker and other agricultural diseases  
and pests.

29 Defines "minor and insubstantial amendments" to a water  
30 control plan as those improvements that are consistent with  
the plan and do not require increased assessments.

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