

By the Committee on Natural Resources and Senators Laurent, Posey, Lawson, Bronson, Smith, Brown-Waite, Pruitt, Mitchell and Constantine

312-1631-01

1 A bill to be entitled

2 An act relating to rural land conservation;

3 creating the "Rural and Family Lands Protection

4 Act"; defining terms; providing legislative

5 intent; creating s. 570.70, F.S.; providing for

6 the purchase of rural-lands-protection

7 easements by the Department of Agriculture and

8 Consumer Services; providing criteria;

9 providing for resource conservation agreements

10 and agricultural protection agreements;

11 prescribing allowable land uses; providing for

12 an application process; providing for an

13 enforceable option to purchase property;

14 directing the department to seek funds from

15 federal sources; amending s. 201.15, F.S.;

16 providing for the distribution of certain taxes

17 to the department to be used for the program;

18 creating s. 215.619, F.S.; providing for bonds;

19 amending s. 570.207, F.S.; providing uses for

20 funds from the Conservation and Recreation

21 Lands Program Trust Fund; providing an

22 effective date.

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

26 Section 1. Short title.--This act may be cited as the
27 "Rural and Family Lands Protection Act."

28 Section 2. Definitions.--As used in this act, the term
29 "department" means the Department of Agriculture and Consumer
30 Services.

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1 Section 3. Section 570.70, Florida Statutes, is
2 created to read:

3 570.70 Legislative findings.--The Legislature finds
4 and declares that:

5 (1) A thriving rural economy with a strong
6 agricultural base, healthy natural environment, and viable
7 rural communities is an essential part of Florida. Rural areas
8 also include the largest remaining intact ecosystems and best
9 examples of remaining wildlife habitats as well as a majority
10 of privately owned land targeted by local, state, and federal
11 agencies for natural-resource protection.

12 (2) The growth of Florida's population can result in
13 agricultural and rural lands being converted into residential
14 or commercial development.

15 (3) The agricultural, rural, natural-resource, and
16 commodity values of rural lands are vital to the state's
17 economy, productivity, rural heritage, and quality of life.

18 (4) The purpose of this act is to bring under public
19 protection lands that serve to limit subdivision and
20 conversion of agricultural and natural areas that provide
21 economic, open space, water, and wildlife benefits by
22 acquiring land or related interests in land such as perpetual,
23 less-than-fee acquisitions, agricultural protection
24 agreements, and resource conservation agreements.

25 Section 4. Section 570.71, Florida Statutes, is
26 created to read:

27 570.71 Conservation easements and agreements.--

28 (1) The department may allocate moneys to acquire
29 perpetual, less-than-fee interest in land, to enter into
30 agricultural protection agreements, and to enter into resource
31 conservation agreements for the following public purposes:

1 (a) Promotion and improvement of wildlife habitat;
2 (b) Protection and enhancement of water bodies,
3 aquifer recharge areas, wetlands, and watersheds;
4 (c) Perpetuation of open space on lands with
5 significant natural areas; or
6 (d) Protection of agricultural lands threatened by
7 conversion to other uses.
8 (2) To achieve the purposes of this act, beginning no
9 later than July 1, 2002, and every year thereafter, the
10 department shall accept applications for project proposals
11 that:
12 (a) Purchase conservation easements, as defined in s.
13 704.06.
14 (b) Purchase rural-lands-protection easements pursuant
15 to this act.
16 (c) Fund resource conservation agreements pursuant to
17 this act.
18 (d) Fund agricultural protection agreements pursuant
19 to this act.
20 (3) Rural-lands-protection easements shall be a
21 perpetual right or interest in agricultural land which is
22 appropriate to retain such land in predominantly its current
23 state and to prevent the subdivision and conversion of such
24 land into other uses. This right or interest in property shall
25 prohibit only the following:
26 (a) Construction or placing of buildings, roads,
27 billboards or other advertising, utilities, or structures,
28 except those structures and unpaved roads necessary for the
29 agricultural operations on the land or structures necessary
30 for other activities allowed under the easement, and except
31 for linear facilities described in s. 704.06(11);

- 1 (b) Subdivision of the property;
2 (c) Dumping or placing of trash, waste, or offensive
3 materials; and
4 (d) Activities that affect the natural hydrology of
5 the land or that detrimentally affect water conservation,
6 erosion control, soil conservation, or fish or wildlife
7 habitat, except those required for environmental restoration;
8 federal, state, or local government regulatory programs; or
9 best management practices.
- 10 (4) Resource conservation agreements will be contracts
11 for services which provide annual payments to landowners for
12 services that actively improve habitat and water restoration
13 or conservation on their lands over and above that which is
14 already required by law or which provide recreational
15 opportunities. They will be for a term of not less than 5
16 years and not more than 10 years. Property owners will become
17 eligible to enter into a resource conservation agreement only
18 upon entering into a conservation easement or rural lands
19 protection easement.
- 20 (5) Agricultural protection agreements shall be for
21 terms of not more than 30 years and will provide payments to
22 landowners having significant natural areas on their land.
23 Public access and public recreational opportunities may be
24 negotiated at the request of the landowner.
- 25 (a) For the length of the agreement, the landowner
26 shall agree to prohibit:
- 27 1. Construction or placing of buildings, roads,
28 billboards or other advertising, utilities, or structures,
29 except those structures and unpaved roads necessary for the
30 agricultural operations on the land or structures necessary
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1 for other activities allowed under the easement, and except
2 for linear facilities described in s. 704.06(11);

3 2. Subdivision of the property;

4 3. Dumping or placing of trash, waste, or offensive
5 materials; and

6 4. Activities that affect the natural hydrology of the
7 land, or that detrimentally affect water conservation, erosion
8 control, soil conservation, or fish or wildlife habitat.

9 (b) Concurrently with entering into an agricultural
10 protection agreement, the landowner shall grant to the state
11 an enforceable option to purchase the property in fee simple
12 at the end of the agreement based on the value of the property
13 at the time the agreement is entered into plus a reasonable
14 escalator. The escalator shall not exceed 2 percent of the
15 value of the property at the time the agreement is entered
16 into multiplied by the number of full calendar years from the
17 date of the commencement of the agreement. At the end of an
18 agreement, the parties may agree to extend the agreement for
19 up to 5 years, but only if the option to purchase remains in
20 effect until the end of the term extension. Upon mutual
21 consent and agreement of the parties, a landowner may enter
22 into a perpetual easement at any time during the term of an
23 agricultural protection agreement.

24 (6) Payment for conservation easements and rural land
25 protection easements shall be a lump-sum payment at the time
26 the easement is entered into, payable from proceeds derived
27 from revenues distributed pursuant to ss. 201.15 and 215.619.

28 (7) Landowners entering into an agricultural
29 protection agreement may receive up to 50 percent of the
30 purchase price at the time the agreement is entered into and
31 remaining payments on the balance shall be equal annual

1 payments over the term of the agreement, payable from proceeds
2 derived from revenues distributed pursuant to ss. 201.15 and
3 215.619, subject to the provisions of s. 11(e) of Art. VII of
4 the State Constitution.

5 (8) Payments for the resource conservation agreements
6 shall be equal annual payments over the term of the agreement,
7 payable from proceeds derived from revenues distributed
8 pursuant to s. 201.15.

9 (9) Easements purchased pursuant to this act may not
10 prevent landowners from transferring the remaining fee value
11 with the easement.

12 (10) The department, in consultation with the
13 Department of Environmental Protection, the water management
14 districts, and the Florida Fish and Wildlife Conservation
15 Commission, shall adopt rules that establish an application
16 process, prioritize projects toward ranch and timber lands
17 using sustainable practices to best achieve the purposes of
18 this act, establish an appraisal process for easements, and
19 establish a method to determine payments under an agricultural
20 protection agreement or a resource conservation agreement.

21 (11) The department is directed to seek funds from
22 federal sources to use in combination with state funds to
23 carry out the purposes of this section.

24 Section 5. Paragraph (c) of subsection (1) of section
25 201.15, Florida Statutes, as amended by chapters 99-247,
26 2000-151, 2000-170, and 2000-197, Laws of Florida, is amended
27 to read:

28 201.15 Distribution of taxes collected.--All taxes
29 collected under this chapter shall be distributed as follows
30 and shall be subject to the service charge imposed in s.
31 215.20(1), except that such service charge shall not be levied

1 against any portion of taxes pledged to debt service on bonds
2 to the extent that the amount of the service charge is
3 required to pay any amounts relating to the bonds:

4 (1) Sixty-two and sixty-three hundredths percent of
5 the remaining taxes collected under this chapter shall be used
6 for the following purposes:

7 (c) The remainder of the moneys distributed under this
8 subsection, after the required payments under paragraph (a),
9 shall be paid into the State Treasury to the credit of the
10 General Revenue Fund of the state to be used and expended for
11 the purposes for which the General Revenue Fund was created
12 and exists by law or to the Ecosystem Management and
13 Restoration Trust Fund or to the Marine Resources Conservation
14 Trust Fund as provided in subsection (11) or to the
15 Conservation and Recreation Lands Program Trust Fund of the
16 Department of Agriculture and Consumer Services pursuant to s.
17 570.71.

18 Section 6. Section 215.619, Florida Statutes, is
19 created to read:

20 215.619 Bonds for rural land preservation.--

21 (1) The issuance of bonds, not to exceed \$100 million,
22 to finance or refinance the Rural and Family Lands Protection
23 Act is authorized and shall commence on July 1, 2002, subject
24 to the provisions of s. 570.71 and pursuant to s. 11(e) of
25 Art. VII of the State Constitution. The duration of each
26 series of bonds issued may not exceed 10 annual maturities.
27 These Rural Land Preservation bonds shall be equally and
28 ratably secured by moneys distributed pursuant to s.
29 201.15(1)(a), except to the extent specifically provided
30 otherwise by the documents authorizing the issuance of the
31 bonds.

1 (2) The state covenants with the holders of Rural Land
2 Preservation bonds that it will not take any action that will
3 materially and adversely affect the rights of such holders so
4 long as such bonds are outstanding, including, but not limited
5 to, a reduction in the portion of documentary stamp taxes
6 distributable to the Conservation and Recreation Lands Program
7 Trust Fund of the Department of Agriculture and Consumer
8 Services for payment of debt service.

9 (3) Bonds issued pursuant to this section shall be
10 payable from taxes distributable to the Conservation and
11 Recreation Lands Program Trust Fund of the Department of
12 Agriculture and Consumer Services pursuant to s. 201.15(1)(c).
13 Bonds issued pursuant to this section shall not constitute a
14 general obligation of, or a pledge of the full faith and
15 credit of, the state.

16 (4) The Department of Agriculture and Consumer
17 Services shall request the Division of Bond Finance of the
18 State Board of Administration to issue the Rural Land
19 Preservation bonds authorized by this section. The Division of
20 Bond Finance shall issue such bonds pursuant to the State Bond
21 Act.

22 (5) The proceeds from the sale of bonds issued
23 pursuant to this section, less the costs of issuance, the
24 costs of funding reserve accounts, and other costs with
25 respect to the bonds, shall be deposited into the Conservation
26 and Recreation Lands Program Trust Fund of the Department of
27 Agriculture and Consumer Services as provided in s. 570.71.

28 (6) Pursuant to authority granted by s. 11(e) of Art.
29 VII of the State Constitution, there is authorized the
30 Conservation and Recreation Lands Program Trust Fund of the
31 Department of Agriculture and Consumer Services, which

1 implements the purposes of s. 9(a)(1) of Art. XII of the State
2 Constitution. The Conservation and Recreation Lands Program
3 Trust Fund of the Department of Agriculture and Consumer
4 Services shall continue beyond the termination of bonding
5 authority provided for in s. 9(a)(1) of Art. XII of the State
6 Constitution, pursuant to the authority provided by s. 11(e)
7 of Art. VII of the State Constitution, and shall continue for
8 so long as Rural Land Preservation bonds are outstanding and
9 secured by taxes distributable thereto.

10 (7) There shall be no sale, disposition, lease,
11 easement, license, or other use of any land, water areas, or
12 related property interests acquired or improved with proceeds
13 of Rural Land Preservation bonds which would cause all or any
14 portion of the interest of such bonds to lose the exclusion
15 from gross income for federal income tax purposes.

16 (8) The initial series of Rural Land Preservation
17 bonds shall be validated in addition to any other bonds
18 required to be validated pursuant to s. 215.82. Any complaint
19 for validation of bonds issued pursuant to this section shall
20 be filed only in the circuit court of the county where the
21 seat of state government is situated; the notice required to
22 be published by s. 75.06 shall be published only in the county
23 where the complaint is filed; and the complaint and order of
24 the circuit court shall be served only on the state attorney
25 of the circuit in which the action is pending.

26 Section 7. Subsection (1) of section 570.207, Florida
27 Statutes, is amended to read:

28 570.207 Conservation and Recreation Lands Program
29 Trust Fund of the Department of Agriculture and Consumer
30 Services.--
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1 (1) There is created a Conservation and Recreation
2 Lands Program Trust Fund within the Department of Agriculture
3 and Consumer Services. The purpose of the trust fund is to
4 provide for the management of conservation and recreation
5 lands by the department. Funds may be appropriated to the
6 trust fund from the Conservation and Recreation Lands Trust
7 Fund in the Department of Environmental Protection, as created
8 by s. 259.032(2), or from such other sources as the
9 Legislature may determine for the management of conservation
10 and recreation lands by the department. Additionally, subject
11 to the provisions of s. 11(e) of Art. VII of the State
12 Constitution, the department may use moneys deposited pursuant
13 to s. 201.15, bonded revenues deposited pursuant to s.
14 215.619, and funds from such other sources as the Legislature
15 determines for the acquisition of conservation easements and
16 rural-lands-protection easements and for funding agricultural
17 protection agreements and resource conservation agreements
18 pursuant to s. 570.71.

19 Section 8. This act shall take effect July 1, 2001.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1758

The overall intent of the bill remains the same even though it has been substantially rewritten. Bond revenues backed by a portion of the Documentary Stamp Tax proceeds would be used to acquire interest in rural and agricultural lands to limit conversion of agricultural and natural areas to urban and other uses. The program will be administered by the Department of Agriculture and Consumer Services.

Legislative findings and intent is clarified to protect rural and agricultural lands by acquiring land or related interests in land such as perpetual easements, less than fee acquisitions, agricultural protection agreements and resource conservation agreements. The original bill focused solely on two types of easements - permanent easements and thirty-year easements.

The CS specifies the requirements, limitations, and payment consideration for conservation easements, rural lands protection easements, resource conservation agreements and agricultural protection agreements.

The Department of Agriculture and Consumer Services in consultation with the Department of Environmental Protection, the water management districts, and the Fish and Wildlife Conservation Commission, shall adopt rules that establish an application process, prioritize projects toward ranch and timber lands to achieve the purposes of this act.

The original bill provided for the incremental increase in the use of Documentary Stamp Tax revenues by \$10 million each year for ten years ending in fiscal year 2011 to be used for interest on bonds. The CS provides for the issuance of not more than \$100 million in bonds, beginning July 1, 2002 for this act. Specific provisions are included in the CS to prescribe requirements for the issuance of bonds. The CS provides for moneys available for this act to be deposited in the Conservation and Recreation Lands Program Trust Fund in the Department of Agriculture and Consumer Services. Such trust fund provisions were not in the original bill.