

HB 0905

2004

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

A bill to be entitled

An act relating to the Florida beef industry; creating s. 570.9135, F.S.; providing a popular name; providing legislative intent; defining terms; creating the Florida Beef Council, Inc.; providing purposes; providing powers and duties of the council and restrictions upon actions of the council; providing for a board of directors of the council; providing for a referendum on assessments proposed to be deducted from the sale of each head of cattle; allowing the council to accept grants and gifts; providing guidelines for payments to other organizations; providing for the collection of assessments at the time of marketing; providing duties of marketing agents and collecting agents; requiring the council to maintain a separate accounting of moneys received from assessments; providing for legal action to collect delinquent assessments; providing for the collection of penalties, enforcement costs, and court costs; providing for refunds; providing for a referendum on continuing this act; providing for council bylaws; providing a contingent effective date.

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

Section 1. Section 570.9135, Florida Statutes, is created to read:

570.9135 Beef Market Development Act; definitions; Florida Beef Council, Inc., creation, purposes, governing board, powers, and duties; referendum on assessments imposed on gross receipts

HB 0905

2004

30 from cattle sales; payments to organizations for services;  
 31 collecting and refunding assessments; vote on continuing the  
 32 act; council bylaws.--

33 (1) POPULAR NAME.--This act shall be known by the popular  
 34 name the "Beef Market Development Act."

35 (2) LEGISLATIVE INTENT.--The Legislature intends by this  
 36 act to promote the growth of the cattle industry in this state;  
 37 to assure the public an adequate and wholesome food supply; to  
 38 provide for the general economic welfare of producers and  
 39 consumers of beef and the state; and to provide the beef cattle  
 40 production and feeding industry of this state with the authority  
 41 to establish a self-financed, self-governed program to help  
 42 develop, maintain, and expand the state, national, and foreign  
 43 markets for beef and beef products that are produced, processed,  
 44 or manufactured in this state.

45 (3) DEFINITIONS.--As used in this act, the term:

46 (a) "Beef" or "beef products" means the products of beef  
 47 intended for human consumption which are derived from any bovine  
 48 animal, regardless of age, including, but not limited to, veal.

49 (b) "Cattle" means such animals as are so designated by  
 50 federal law, including any marketing, promotion, and research  
 51 orders as are in effect. Unless such federal law provides to the  
 52 contrary, the term "cattle" includes all bovine animals,  
 53 regardless of age, including, but not limited to, calves. A cow  
 54 and nursing calf sold together are considered one unit.

55 (c) "Council" means the Florida Beef Council, Inc.

56 (d) "Department" means the Department of Agriculture and  
 57 Consumer Services.

HB 0905

2004

58 (e) "Market agent," "market agency," "collection agent,"  
 59 or "collection agency" means a person who sells, offers for  
 60 sale, markets, distributes, trades, or processes cattle that  
 61 have been purchased or acquired from a producer or that are  
 62 marketed on behalf of a producer. The terms also include  
 63 meatpacking firms and their agents which purchase or consign to  
 64 purchase cattle.

65 (f) "Person" means any natural person, partnership,  
 66 corporation, company, association, society, trust, or other  
 67 business unit or organization.

68 (g) "Producer" means a person that has owned or sold  
 69 cattle in the previous calendar year or presently owns cattle.

70 (4) FLORIDA BEEF COUNCIL, INC.; CREATION; PURPOSES.--

71 (a) There is created the Florida Beef Council, Inc., a  
 72 not-for-profit corporation organized under the laws of this  
 73 state and operating as a direct-service organization of the  
 74 department.

75 (b) The intents and purposes of this act shall be financed  
 76 through an assessment imposed on each head of cattle sold in  
 77 this state, which assessment must be approved by a simple  
 78 majority vote of beef producers in this state.

79 (c) The purposes and objectives of the program are to:

80 1. Plan, implement, and conduct programs of promotion,  
 81 research, and consumer information or industry information which  
 82 are designed to strengthen the cattle industry's market position  
 83 in this state and in the nation and to maintain and expand  
 84 domestic and foreign markets and uses for beef and beef  
 85 products.

HB 0905

2004

86 2. Administer and receive assessments from any cattle sold  
 87 in this state for the purpose of funding cattle production and  
 88 beef research, education, promotion, and consumer and industry  
 89 information in this state and in the nation.

90 3. Develop, implement, and monitor the assessment-  
 91 collection system for this state.

92 4. Plan and implement a cattle and beef industry feedback  
 93 program in this state.

94 5. Coordinate the assessment system for this state with  
 95 any national program, as well as with other states, so as to  
 96 coordinate research, education, promotion, industry, and  
 97 consumer information programs.

98 6. Develop new uses and markets for beef and beef  
 99 products.

100 7. Develop and improve methods of distributing beef and  
 101 beef products to the consumer.

102 8. Develop methods of improving the quality of beef and  
 103 beef products for the benefit of consumers.

104 9. Inform and educate the public concerning the nutritive  
 105 and economic values of beef and beef products.

106 10. Serve as a liaison within the beef and other food  
 107 industries of the state and elsewhere in matters that would  
 108 increase efficiencies that ultimately benefit both consumers and  
 109 industry.

110 11. Establish the amount per head for an assessment to be  
 111 collected for this state.

112 12. Coordinate collection of assessments among neighboring  
 113 states.

HB 0905

2004

114 13. Establish refund procedures and criteria for any  
 115 producer from whom an assessment has been collected.

116 14. Buy, sell, mortgage, rent, or improve, in any manner  
 117 that the council considers expedient, real property or personal  
 118 property, or both.

119 15. Publish and distribute such papers or periodicals as  
 120 the board of directors considers necessary to encourage and  
 121 accomplish the purposes of the council.

122 16. Do all other acts necessary or expedient for the  
 123 administration of the affairs and attainment of the purposes of  
 124 the council.

125 17. Approve an annual plan, budget, and audit for the  
 126 council.

127 (d)1. The council may not participate in or intervene in  
 128 any political campaign on behalf of or in opposition to any  
 129 candidate for public office. This restriction includes, but is  
 130 not limited to, a prohibition against publishing or distributing  
 131 any statements.

132 2. No part of the net receipts of the council shall inure  
 133 to the benefit of or be distributable to its directors, its  
 134 officers, or other private persons, except that the council may  
 135 pay reasonable compensation for services rendered by staff  
 136 employees and may make payments and distributions in furtherance  
 137 of the purposes of this act.

138 3. Notwithstanding any other provision of law, the council  
 139 may not carry on any other activities not permitted to be  
 140 carried on:

HB 0905

2004

141 a. By a corporation exempt from federal income tax under  
 142 s. 501(c)(3) of the Internal Revenue Code of 1986, as amended;  
 143 or

144 b. By a corporation to which contributions are deductible  
 145 under s. 170(c)(2) of the Internal Revenue Code of 1986, as  
 146 amended.

147 4. Notwithstanding any other statement of the purposes and  
 148 responsibilities of the council, the council may not engage in  
 149 any activities or exercise any powers that are not in  
 150 furtherance of its specific and primary purposes.

151 (5) GOVERNING BOARD.--

152 (a) The Florida Beef Council, Inc., shall be governed by a  
 153 board of directors composed of 13 members, including 8  
 154 representatives of the Florida Cattlemen's Association, of whom  
 155 one is a representative of the Florida Association of Livestock  
 156 Markets; one a representative of the Dairy Farmers, Inc.; one a  
 157 representative of the Florida CattleWomen, Inc.; one a  
 158 representative of the Florida Farm Bureau Federation; one an  
 159 allied-industry representative; and one an Institute of Food and  
 160 Agricultural Sciences representative.

161 (b) The initial board of directors shall be appointed by  
 162 the Commissioner of Agriculture for a term of 1 year. Each  
 163 subsequent vacancy shall be filled in accordance with the bylaws  
 164 of the council. Thereafter, each board member shall be appointed  
 165 to serve a 3-year term and may be reappointed to serve an  
 166 additional consecutive term. A member may not serve more than  
 167 two consecutive terms. A member must be a resident of this state  
 168 and must be a beef producer who has been a beef producer for at  
 169 least the 5 years immediately preceding the first day of his or

HB 0905

2004

170 her service on the board, except that the representative of the  
 171 Florida Farm Bureau Federation, the allied-industry  
 172 representative, and the Institute of Food and Agricultural  
 173 Sciences representative need not be beef producers. All beef  
 174 council board positions shall be unsalaried; however, the board  
 175 members are entitled to reimbursement as provided in s. 112.061  
 176 for travel and other expenses incurred in carrying out the  
 177 intents and purposes of this act.

178 (c) The council shall provide for its officers through its  
 179 bylaws, including the ability to set forth offices and  
 180 responsibilities and form committees necessary for the  
 181 implementation of this act. The Commissioner of Agriculture may  
 182 designate an ex officio nonvoting member of the board of  
 183 directors.

184 (d) If a member of the board misses three consecutive,  
 185 officially called meetings, the board of directors may declare  
 186 that position vacant.

187 (6) REFERENDUM ON ASSESSMENTS.--All beef producers in this  
 188 state shall have the opportunity to vote in a referendum to  
 189 determine the amount of assessments to be deducted from the  
 190 gross receipts of the sale of cattle in this state to be used to  
 191 finance this act.

192 (a) A referendum held under this section must be conducted  
 193 by secret ballot at extension offices of the Institute of Food  
 194 and Agricultural Sciences of the University of Florida or at  
 195 offices of the United States Department of Agriculture with the  
 196 cooperation of the department.

197 (b) Notice of a referendum to be held under this act must  
 198 be given at least once in trade publications, the public press,

HB 0905

2004

199 and statewide newspapers at least 30 days before the referendum  
 200 is held.

201 (c) Only one referendum on a prospective increase in the  
 202 amount of assessments to be deducted from the gross receipts of  
 203 the sale of cattle in this state may be conducted in a 5-year  
 204 period.

205 (d) Each cattle producer is entitled to only one vote in a  
 206 referendum held under this act. Proof of identification and  
 207 cattle ownership must be presented before voting.

208 (e) A simple majority of those casting ballots shall  
 209 determine any issue that requires a referendum under this act.

210 (7) POWERS AND DUTIES OF THE COUNCIL.--

211 (a) The council shall:

212 1. Receive and disburse funds, as prescribed elsewhere in  
 213 this act, to be used in administering and implementing the act.

214 2. Maintain a permanent record of its business  
 215 proceedings.

216 3. Maintain a permanent, detailed record of its financial  
 217 dealings.

218 4. Prepare periodic reports and an annual report of its  
 219 activities for the fiscal year, for review by the beef industry  
 220 in this state, and file its annual report with the department.

221 5. Prepare, for review by the beef industry in this state,  
 222 periodic reports and an annual accounting for each fiscal year  
 223 of all receipts and expenditures, and shall retain a certified  
 224 public accountant for this purpose.

225 6. Appoint a licensed banking institution to serve as the  
 226 depository for program funds and to handle disbursements of  
 227 those funds.



HB 0905

2004

228 7. Maintain frequent communication with officers and  
229 industry representatives at the state and national levels,  
230 including the department.

231 8. Maintain an office in this state.

232 (b) The council may:

233 1. Conduct or contract for scientific research with any  
234 accredited university, college, or similar institution, and  
235 enter into other contracts or agreements that will aid in  
236 carrying out the purposes of the program, including contracts  
237 for the purchase or acquisition of facilities or equipment  
238 necessary to carry out the purposes of the program.

239 2. Disseminate reliable information benefiting the  
240 consumer and the beef industry on subjects such as, but not  
241 limited to, the purchase, identification, care, storage,  
242 handling, cookery, preparation, serving, and nutritive value of  
243 beef and beef products.

244 3. Provide to government bodies, on request, information  
245 relating to subjects of concern to the beef industry, and may  
246 act jointly or in cooperation with the state or Federal  
247 Government, and agencies thereof, in the development or  
248 administration of programs that the council considers to be  
249 consistent with the objectives of the program.

250 4. Sue and be sued as a council without individual  
251 liability of the members for acts of the council when acting  
252 within the scope of the powers of this act and in the manner  
253 prescribed by the laws of this state.

254 5. Borrow from licensed lending institutions money in  
255 amounts that are not cumulatively greater than 50 percent of the  
256 council's anticipated annual income.

HB 0905

2004

257 6. Maintain a financial reserve for emergency use, the  
 258 total of which must not exceed 50 percent of the council's  
 259 anticipated annual income.

260 7. Appoint advisory groups composed of representatives  
 261 from organizations, institutions, governments, or businesses  
 262 related to or interested in the welfare of the beef industry and  
 263 the consuming public.

264 8. Employ subordinate officers and employees of the  
 265 council, prescribe their duties, and fix their compensation and  
 266 terms of employment.

267 9. Cooperate with any local, state, regional, or  
 268 nationwide organization or agency engaged in work or activities  
 269 consistent with the objectives of the program.

270 10. Cause any duly authorized agent or representative to  
 271 enter upon the premises of any market agency, market agent,  
 272 collection agency, or collection agent and examine or cause to  
 273 be examined by the authorized agent only books, papers, and  
 274 records that deal with the payment of the assessment provided  
 275 for in this act or with the enforcement of this act.

276 11. Do all other things necessary to further the intent of  
 277 this act which are not prohibited by law.

278 (8) ACCEPTANCE OF GRANTS AND GIFTS.--The council may  
 279 accept grants, donations, contributions, or gifts from any  
 280 source if the use of such resources is not restricted in any  
 281 manner that the council considers to be inconsistent with the  
 282 objectives of the program.

283 (9) PAYMENTS TO ORGANIZATIONS.--

HB 0905

2004

284 (a) The council may pay funds to other organizations for  
 285 work or services performed which are consistent with the  
 286 objectives of the program.

287 (b) Before making payments described in this subsection,  
 288 the council must secure a written agreement that the  
 289 organization receiving payment will:

290 1. Furnish at least annually, or more frequently on  
 291 request of the council, written or printed reports of program  
 292 activities and reports of financial data that are relative to  
 293 the council's funding of such activities; and

294 2. Agree to have appropriate representatives attend  
 295 business meetings of the council as reasonably requested by the  
 296 chairperson of the council.

297 (c) The council may require adequate proof of security  
 298 bonding on funds paid to any individual, business, or other  
 299 organization.

300 (10) COLLECTION OF MONEYS AT TIME OF MARKETING.--

301 (a) Each marketing agency licensed to do business in this  
 302 state shall deduct from the gross receipts of the seller, at the  
 303 time of sale, an assessment established by referendum in an  
 304 amount of up to \$1 per head, as recommended by the council, on  
 305 all cattle marketed in this state.

306 (b) The collecting agent shall collect all such moneys and  
 307 forward them to the council periodically, at least once a month,  
 308 and the council shall provide appropriate business forms for the  
 309 convenience of the collecting agent in executing this duty.

310 Failure of the collecting agent to deduct or forward funds under  
 311 this subsection is grounds for the council to request that the

HB 0905

2004

312 department suspend or refuse to issue the collecting agent's  
 313 license.

314 (c) The council shall maintain within its financial  
 315 records a separate accounting of all moneys received under this  
 316 subsection.

317 (d) Any due and payable assessment required under this act  
 318 constitutes a personal debt of the person who is so assessed or  
 319 who otherwise owes the assessment. If a person fails to remit  
 320 any properly due assessment, the council may bring a civil  
 321 action against that person in the circuit court of any county  
 322 for the collection thereof, and may add a penalty in the amount  
 323 of 10 percent of the assessment owed, the cost of enforcing the  
 324 collection of the assessment, and court costs. The action shall  
 325 be tried and judgment rendered as in any other cause of action  
 326 for debts due and payable. All assessments, penalties, and  
 327 enforcement costs are due and payable to the council.

328 (e) All moneys deducted under this subsection are  
 329 considered to be bona fide business expenses for the seller as  
 330 provided for under the tax laws of this state.

331 (f) The council may adopt reciprocal agreements with other  
 332 beef councils or similar organizations relating to moneys  
 333 collected at Florida collecting agencies on cattle from other  
 334 states and to Florida cattle sold at other state markets.

335 (11) REFUNDS.--

336 (a) A seller of cattle who has had moneys deducted from  
 337 his or her gross sales receipts under this act is entitled to a  
 338 prompt and full refund on request.

339 (b) The council shall make available to all collecting  
 340 agents business forms permitting requests for refund, which

HB 0905

2004

341 forms are to be submitted by the objecting cattle producer or  
342 owner within 45 days after the sale transaction takes place.

343 (c) A refund claim made by the cattle producer or owner  
344 must include the claimant's signature, date of sale, place of  
345 sale, number of cattle, and amount of assessment deducted, and  
346 must have attached thereto proof of the assessment deducted.

347 (d) If the council has reasonable doubt that a refund  
348 claim is valid, it may withhold payment and take such action as  
349 it considers necessary to determine the validity of the claim.

350 (e) Only the producer may initiate a request for refund.

351 (12) VOTE ON CONTINUING THE ACT.--Upon the delivery by  
352 certified mail to the Florida Beef Council office of petitions  
353 from at least 15 counties containing signatures of at least 200  
354 beef producers from each county and stating "Shall the Beef  
355 Market Development Act continue," the council shall, within 90  
356 days, conduct a referendum to determine whether a majority of  
357 the beef producers voting in the referendum support the  
358 continuation of the Beef Market Development Act. A referendum  
359 held under this subsection may not be held more than one time in  
360 each 5-year period. Qualifications for signature and vote are  
361 the same as those required in subsection (6).

362 (13) BYLAWS.--The Florida Beef Council shall, within 90  
363 days after this act becomes a law, adopt bylaws to carry out the  
364 intents and purposes of this act. These bylaws may be amended  
365 with a 30-day notice to board members at any regular or special  
366 meeting called for this purpose. The bylaws must conform to the  
367 requirements of this act, but may also address any matter not in  
368 conflict with the general laws of this state.

HB 0905

2004

369 Section 2. This act shall take effect upon becoming a law;  
370 however, an assessment on head of cattle sold may not be imposed  
371 under this act, nor may a referendum relating to such  
372 assessments be conducted, before the effective date of  
373 dissolution of the Beef Promotion and Research Act of 1985, Pub.  
374 L. No. 99-198, which date shall be determined by the Florida  
375 Commissioner of Agriculture.