

By Senator Fasano

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1 A bill to be entitled

2 An act relating to unauthorized employment; amending s.
3 193.461, F.S.; requiring denial of agricultural
4 classification and assessment for specified time periods
5 under circumstances involving knowingly hiring,
6 recruiting, or referring for employment unauthorized
7 aliens; requiring alternative assessment for specified
8 time; amending s. 448.09, F.S.; providing an additional
9 civil penalty for employment of unauthorized aliens;
10 amending s. 570.07, F.S.; requiring the Department of
11 Agriculture and Consumer Services to disseminate
12 information concerning compliance with federal work
13 authorization programs; providing a definition; creating
14 s. 559.7915, F.S.; requiring information demonstrating
15 compliance with federal work authorization program as a
16 condition of licensure, certification, or registration;
17 providing a definition; prohibiting knowingly hiring,
18 recruiting, or referring for employment an unauthorized
19 alien; establishing grounds for disciplinary action by the
20 Department of Business and Professional Regulation;
21 providing penalties; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 193.461, Florida Statutes, is amended to
26 read:

27 193.461 Agricultural lands; classification and assessment;
28 mandated eradication or quarantine program; unauthorized
29 employment prohibited; penalties.--

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

33 (2) Any landowner whose land is denied agricultural
34 classification by the property appraiser may appeal to the value
35 adjustment board. The property appraiser shall notify the
36 landowner in writing of the denial of agricultural classification
37 on or before July 1 of the year for which the application was
38 filed. The notification shall advise the landowner of his or her
39 right to appeal to the value adjustment board and of the filing
40 deadline. The board may also review all lands classified by the
41 property appraiser upon its own motion. The property appraiser
42 shall have available at his or her office a list by ownership of
43 all applications received showing the acreage, the full valuation
44 under s. 193.011, the valuation of the land under the provisions
45 of this section, and whether or not the classification requested
46 was granted.

47 (3) (a) No lands shall be classified as agricultural lands
48 unless a return is filed on or before March 1 of each year. The
49 property appraiser, before so classifying such lands, may require
50 the taxpayer or the taxpayer's representative to furnish the
51 property appraiser such information as may reasonably be required
52 to establish that such lands were actually used for a bona fide
53 agricultural purpose. Failure to make timely application by
54 March 1 shall constitute a waiver for 1 year of the privilege
55 herein granted for agricultural assessment. However, an
56 applicant who is qualified to receive an agricultural
57 classification who fails to file an application by March 1 may
58 file an application for the classification and may file, pursuant

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59 | to s. 194.011(3), a petition with the value adjustment board
60 | requesting that the classification be granted. The petition may
61 | be filed at any time during the taxable year on or before the
62 | 25th day following the mailing of the notice by the property
63 | appraiser as provided in s. 194.011(1). Notwithstanding the
64 | provisions of s. 194.013, the applicant must pay a nonrefundable
65 | fee of \$15 upon filing the petition. Upon reviewing the
66 | petition, if the person is qualified to receive the
67 | classification and demonstrates particular extenuating
68 | circumstances judged by the property appraiser or the value
69 | adjustment board to warrant granting the classification, the
70 | property appraiser or the value adjustment board may grant the
71 | classification. The owner of land that was classified
72 | agricultural in the previous year and whose ownership or use has
73 | not changed may reapply on a short form as provided by the
74 | department. The lessee of property may make original application
75 | or reapply using the short form if the lease, or an affidavit
76 | executed by the owner, provides that the lessee is empowered to
77 | make application for the agricultural classification on behalf of
78 | the owner and a copy of the lease or affidavit accompanies the
79 | application. A county may, at the request of the property
80 | appraiser and by a majority vote of its governing body, waive the
81 | requirement that an annual application or statement be made for
82 | classification of property within the county after an initial
83 | application is made and the classification granted by the
84 | property appraiser. Such waiver may be revoked by a majority vote
85 | of the governing body of the county.

86 | (b) Subject to the restrictions set out in this section,
87 | only lands which are used primarily for bona fide agricultural

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88 | purposes shall be classified agricultural. "Bona fide
89 | agricultural purposes" means good faith commercial agricultural
90 | use of the land. In determining whether the use of the land for
91 | agricultural purposes is bona fide, the following factors may be
92 | taken into consideration:

- 93 | 1. The length of time the land has been so utilized;
- 94 | 2. Whether the use has been continuous;
- 95 | 3. The purchase price paid;
- 96 | 4. Size, as it relates to specific agricultural use;
- 97 | 5. Whether an indicated effort has been made to care
98 | sufficiently and adequately for the land in accordance with
99 | accepted commercial agricultural practices, including, without
100 | limitation, fertilizing, liming, tilling, mowing, reforesting,
101 | and other accepted agricultural practices;
- 102 | 6. Whether such land is under lease and, if so, the
103 | effective length, terms, and conditions of the lease; and
- 104 | 7. Such other factors as may from time to time become
105 | applicable.

106 | (c) The maintenance of a dwelling on part of the lands used
107 | for agricultural purposes shall not in itself preclude an
108 | agricultural classification.

109 | (d) When property receiving an agricultural classification
110 | contains a residence under the same ownership, the portion of the
111 | property consisting of the residence and curtilage must be
112 | assessed separately, pursuant to s. 193.011, to qualify for the
113 | assessment limitation set forth in s. 193.155. The remaining
114 | property may be classified under the provisions of paragraphs (a)
115 | and (b).

116 | (e) Notwithstanding the provisions of paragraph (a), land

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117 | that has received an agricultural classification from the value
118 | adjustment board or a court of competent jurisdiction pursuant to
119 | this section is entitled to receive such classification in any
120 | subsequent year until such agricultural use of the land is
121 | abandoned or discontinued, the land is diverted to a
122 | nonagricultural use, or the land is reclassified as
123 | nonagricultural pursuant to subsection (4). The property
124 | appraiser must, no later than January 31 of each year, provide
125 | notice to the owner of land that was classified agricultural in
126 | the previous year informing the owner of the requirements of this
127 | paragraph and requiring the owner to certify that neither the
128 | ownership nor the use of the land has changed. The department
129 | shall, by administrative rule, prescribe the form of the notice
130 | to be used by the property appraiser under this paragraph. If a
131 | county has waived the requirement that an annual application or
132 | statement be made for classification of property pursuant to
133 | paragraph (a), the county may, by a majority vote of its
134 | governing body, waive the notice and certification requirements
135 | of this paragraph and shall provide the property owner with the
136 | same notification provided to owners of land granted an
137 | agricultural classification by the property appraiser. Such
138 | waiver may be revoked by a majority vote of the county's
139 | governing body. This paragraph does not apply to any property if
140 | the agricultural classification of that property is the subject
141 | of current litigation.

142 | (4) (a) The property appraiser shall reclassify the
143 | following lands as nonagricultural:

144 | 1. Land diverted from an agricultural to a nonagricultural
145 | use.

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146 2. Land no longer being utilized for agricultural purposes.

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

149 (b) The board of county commissioners may also reclassify
150 lands classified as agricultural to nonagricultural when there is
151 contiguous urban or metropolitan development and the board of
152 county commissioners finds that the continued use of such lands
153 for agricultural purposes will act as a deterrent to the timely
154 and orderly expansion of the community.

155 (c) Sale of land for a purchase price which is three or
156 more times the agricultural assessment placed on the land shall
157 create a presumption that such land is not used primarily for
158 bona fide agricultural purposes. Upon a showing of special
159 circumstances by the landowner demonstrating that the land is to
160 be continued in bona fide agriculture, this presumption may be
161 rebutted.

162 (5) For the purpose of this section, "agricultural
163 purposes" includes, but is not limited to, horticulture;
164 floriculture; viticulture; forestry; dairy; livestock; poultry;
165 bee; pisciculture, when the land is used principally for the
166 production of tropical fish; aquaculture; sod farming; and all
167 forms of farm products and farm production.

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

173 1. The quantity and size of the property;

174 2. The condition of the property;

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175 3. The present market value of the property as agricultural
176 land;

177 4. The income produced by the property;

178 5. The productivity of land in its present use;

179 6. The economic merchantability of the agricultural
180 product; and

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

184 (b) Notwithstanding any provision relating to annual
185 assessment found in s. 192.042, the property appraiser shall rely
186 on 5-year moving average data when utilizing the income
187 methodology approach in an assessment of property used for
188 agricultural purposes.

189 (c)1. For purposes of the income methodology approach to
190 assessment of property used for agricultural purposes, irrigation
191 systems, including pumps and motors, physically attached to the
192 land shall be considered a part of the average yields per acre
193 and shall have no separately assessable contributory value.

194 2. Litter containment structures located on producing
195 poultry farms and animal waste nutrient containment structures
196 located on producing dairy farms shall be assessed by the
197 methodology described in subparagraph 1.

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

201 (7) Lands classified for assessment purposes as
202 agricultural lands which are taken out of production by any state
203 or federal eradication or quarantine program shall continue to be

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204 classified as agricultural lands for the duration of such program
205 or successor programs. Lands under these programs which are
206 converted to fallow, or otherwise nonincome-producing uses shall
207 continue to be classified as agricultural lands and shall be
208 assessed at a de minimis value of no more than \$50 per acre, on a
209 single year assessment methodology; however, lands converted to
210 other income-producing agricultural uses permissible under such
211 programs shall be assessed pursuant to this section. Land under a
212 mandated eradication or quarantine program which is diverted from
213 an agricultural to a nonagricultural use shall be assessed under
214 s. 193.011.

215 (8) (a) Lands may not be classified as agricultural lands
216 for the length of time specified in paragraph (b) if the
217 landowner has been determined to have violated any provision of
218 the federal immigration law by knowingly hiring, recruiting, or
219 referring for herself or himself or on behalf of another, for
220 private or public employment within the state, whether through
221 direct employment or through a contractor or subcontractor, a
222 person who is not duly authorized to work by the federal
223 immigration laws or the Attorney General of the United States.

224 (b) If the appraiser determines that the landowner applying
225 under this section meets the conditions specified in paragraph
226 (a), the appraiser shall deny application for classification
227 assessment as agricultural property by the landowner for the
228 lengths of time for conditions as follows:

229 1. A minimum period of 2 years for a violation involving
230 the employment of five or fewer persons who are not duly
231 authorized to work by the federal immigration laws or the
232 Attorney General of the United States.

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233 2. A period of 5 years for a violation involving the
234 employment of six to 10 persons who are not duly authorized to
235 work by the federal immigration laws or the Attorney General of
236 the United States.

237 3. A period of 10 years for a violation involving the
238 unauthorized employment of more than 10 persons who are not duly
239 authorized to work by the federal immigration laws or the
240 Attorney General of the United States.

241 (c) For the years the land is not assessed as agricultural
242 pursuant to this section, it shall be assessed under s. 193.011.

243 Section 2. Subsection (4) is added to section 448.09,
244 Florida Statutes, to read:

245 448.09 Unauthorized aliens; employment prohibited.--

246 (4) In addition to any penalty specified in s. 193.461(8),
247 a landowner is also subject to a civil fine of \$25,000 for the
248 employment of each person who is not duly authorized to work by
249 the federal immigration laws or the Attorney General of the
250 United States.

251 Section 3. Subsection (42) is added to section 570.07,
252 Florida Statutes, to read:

253 570.07 Department of Agriculture and Consumer Services;
254 functions, powers, and duties.--The department shall have and
255 exercise the following functions, powers, and duties:

256 (42) To provide information for dissemination to all
257 persons who are served by or regulated by the department in its
258 various agricultural capacities in order to foster and encourage
259 compliance with federal work authorization programs. This
260 information shall include the need for compliance both as it
261 relates to those directly employed by those persons and as it

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262 relates to those employed by contractors and subcontractors. For
263 the purposes of this subsection, the term "federal work
264 authorization program" means any program operated by the United
265 States Department of Homeland Security which provides electronic
266 verification of work authorization issued by the United States
267 Bureau of Citizenship and Immigration Services or any equivalent
268 federal work authorization program operated by the United States
269 Department of Homeland Security which provides for the
270 verification of information regarding newly hired employees under
271 the Immigration Reform and Control Act of 1986, Pub. L. No. 99-
272 603.

273 Section 4. Section 559.7915, Florida Statutes, is created
274 to read:

275 559.7915 Compliance with federal work authorization
276 program; information required for licensure, certification, or
277 registration; unauthorized employment prohibited; penalties.--

278 (1) (a) As a condition of licensure, certification, or
279 registration or renewal of a license, certification, or
280 registration under part III of chapter 450, part I of chapter
281 489, part I of chapter 509, or under chapter 563, chapter 564, or
282 chapter 565, if that person is also applying for or possesses a
283 license under part I of chapter 509, a person applying for a
284 license, certification, or registration shall ensure compliance
285 with a federal work authorization program regarding all employees
286 and shall ensure that any contractors and subcontractors
287 providing services to the applicant register and participate in a
288 federal work authorization program. Proof of compliance shall be
289 by certification by the applicant for all employees and by
290 certification to the applicant by any contractor or subcontractor

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291 that the contractor or subcontractor is in compliance.

292 (b) For the purpose of this subsection, the term "federal
293 work authorization program" means any program operated by the
294 United States Department of Homeland Security which provides
295 electronic verification of work authorization issued by the
296 United States Bureau of Citizenship and Immigration Services or
297 any equivalent federal work authorization program operated by the
298 United States Department of Homeland Security which provides for
299 the verification of information regarding newly hired employees
300 under the Immigration Reform and Control Act of 1986, Pub. L. No.
301 99-603.

302 (2) A person applying for a license, certification, or
303 registration or for renewal of a license, certification, or
304 registration, or a person possessing a license, certification, or
305 registration under the provisions of law cited in subsection (1)
306 who has been determined to have violated any provision of the
307 federal immigration law by knowingly hiring, recruiting, or
308 referring for herself or himself or on behalf of another, for
309 private or public employment within the state, a person who is
310 not duly authorized to work by the federal immigration laws or by
311 the United States Attorney General constitutes grounds for which
312 the disciplinary actions specified in subsection (3) may be
313 taken.

314 (3) When the board, or the department when there is no
315 board, determines that a person applying for or possessing a
316 license, certification, or registration has been determined to
317 meet the conditions specified in subsection (2), it shall enter
318 an order imposing one of the penalties in paragraphs (a)-(d) and
319 imposing the fine in paragraph (e) for penalties imposed under

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320 paragraphs (b), (c), or (d):

321 (a) Denial of application for initial or renewal of a
322 license, certification, or registration.

323 (b) Suspension of a license, certification, or registration
324 for a minimum of 2 years for a violation involving the employment
325 of five or fewer persons who are not duly authorized to work by
326 the federal immigration laws or by the Attorney General of the
327 United States.

328 (c) Suspension of a license, certification, or registration
329 for 5 years for a violation involving the employment of six to
330 ten persons who are not duly authorized to work by the federal
331 immigration laws or by the Attorney General of the United States.

332 (d) Revocation of a license, certification, or registration
333 for a violation involving the unauthorized employment of more
334 than 10 persons who are not duly authorized to work by the
335 federal immigration laws or by the Attorney General of the United
336 States.

337 (e) Imposition of an administrative fine of \$25,000 for
338 each person who is not duly authorized to work by the federal
339 immigration laws or by the Attorney General of the United States.

340 Section 5. This act shall take effect January 1, 2009.