

By the Committee on Agriculture; and Senator Alexander

575-02712-10

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1                   A bill to be entitled  
2           An act relating to agriculture; amending s. 193.461,  
3           F.S.; clarifying that land that is classified as  
4           agricultural retains that classification when offered  
5           for sale; providing for retroactivity; amending s.  
6           369.20, F.S.; authorizing the Fish and Wildlife  
7           Conservation Commission to enter into an agreement  
8           with the Department of Environmental Protection  
9           relating to the uniform application of pesticides to  
10          the waters of the state; revising exemptions from  
11          water pollution permits; amending s. 403.088, F.S.;  
12          providing permits for applying pesticides to the  
13          waters of the state; requiring the Department of  
14          Environmental Protection to enter into agreements with  
15          the Department of Agriculture and Consumer Services  
16          and the Fish and Wildlife Conservation Commission  
17          relating to the uniform application of pesticides to  
18          the waters of the state; exempting certain pesticides  
19          from acute toxicity provisions provided by rule;  
20          amending s. 487.163, F.S.; requiring the Department of  
21          Agriculture and Consumer Services to enter into an  
22          agreement with the Department of Environmental  
23          Protection relating to the uniform application of  
24          pesticides to the waters of the state; amending s.  
25          573.112, F.S.; providing that the Citrus Research and  
26          Development Foundation shall provide advice to the  
27          Department of Agriculture and Consumer Services with  
28          respect to citrus research marketing orders; amending  
29          s. 573.118, F.S.; providing for the deposit of certain

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30 agricultural assessments; revising the assessment rate  
31 on citrus fruit; amending s. 581.031, F.S.; expanding  
32 the type of research projects which may be conducted  
33 by the department; providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Paragraph (b) of subsection (3) of section  
38 193.461, Florida Statutes, is amended to read:

39 193.461 Agricultural lands; classification and assessment;  
40 mandated eradication or quarantine program.—

41 (3)

42 (b) Subject to the restrictions specified ~~set out~~ in this  
43 section, only lands that ~~which~~ are used primarily for bona fide  
44 agricultural purposes shall be classified agricultural. The term  
45 "bona fide agricultural purposes" means good faith commercial  
46 agricultural use of the land.

47 1. In determining whether the use of the land for  
48 agricultural purposes is bona fide, the following factors may be  
49 taken into consideration:

50 a.1. ~~The length of time the land has been so used.~~

51 b.2. ~~Whether the use has been continuous.~~

52 c.3. ~~The purchase price paid.~~

53 d.4. ~~Size, as it relates to specific agricultural use, but~~  
54 ~~in no event shall~~ a minimum acreage may not be required for  
55 agricultural assessment.

56 e.5. ~~Whether an indicated effort has been made to care~~  
57 ~~sufficiently and adequately for the land in accordance with~~  
58 ~~accepted commercial agricultural practices, including, without~~

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59 limitation, fertilizing, liming, tilling, mowing, reforesting,  
60 and other accepted agricultural practices.

61 ~~f.6.~~ Whether the ~~such~~ land is under lease and, if so, the  
62 effective length, terms, and conditions of the lease.

63 ~~g.7.~~ Such other factors as may ~~from time to time~~ become  
64 applicable.

65 2. Offering property for sale does not constitute a primary  
66 use of land and may not be the basis for denying its  
67 agricultural classification if the land continues to be used  
68 primarily for bona fide agricultural purposes while it is being  
69 offered for sale.

70 Section 2. The amendment to paragraph (b) of subsection (3)  
71 of section 193.461, Florida Statutes, made by this act is  
72 intended to be remedial and clarifying in nature and applies  
73 retroactively to all parcels for which a final court order has  
74 not yet been entered as of the effective date of this act.

75 Section 3. Subsections (4) and (9) of section 369.20,  
76 Florida Statutes, are amended to read:

77 369.20 Florida Aquatic Weed Control Act.—

78 (4) The commission shall also promote, develop, and support  
79 research activities directed toward the more effective and  
80 efficient control of aquatic plants. In the furtherance of this  
81 purpose, the commission may ~~is authorized to~~:

82 (a) Accept donations and grants of funds and services from  
83 both public and private sources;

84 (b) Contract or enter into agreements with public or  
85 private agencies or corporations for research and development of  
86 aquatic plant control methods or for the performance of aquatic  
87 plant control activities. The commission may enter into an

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88 agreement with the Department of Environmental Protection to  
89 ensure the uniform regulation of pesticides applied to the  
90 waters of the state, including provision for coordinating agency  
91 staff and resources, through the implementation of permitting,  
92 compliance, and enforcement activities under ss. 403.088 and  
93 403.0885;

94 (c) Construct, acquire, operate, and maintain facilities  
95 and equipment; and

96 (d) Enter upon, or authorize the entry upon, private  
97 property for purposes of making surveys and examinations and to  
98 engage in aquatic plant control activities; and such entry shall  
99 not be deemed a trespass.

100 (9) ~~A permit issued pursuant to this section for~~ The  
101 application of herbicides to waters of ~~in~~ the state for the  
102 control of aquatic plants, algae, or invasive exotic plants is  
103 exempt from the requirement to obtain a water pollution  
104 operation permit except as provided in ss. ~~pursuant to s.~~  
105 403.088 and 403.0885.

106 Section 4. Subsection (1) of section 403.088, Florida  
107 Statutes, is amended to read:

108 403.088 Water pollution operation permits; conditions.—

109 (1) ~~No person,~~ Without the written authorization of the  
110 department, a person may not ~~shall~~ discharge any waste into the  
111 waters of ~~within~~ the state ~~any waste~~ which, by itself or in  
112 combination with the wastes of other sources, reduces the  
113 quality of the receiving waters below the classification  
114 established for such waters ~~them~~. However, this section does  
115 ~~shall not be deemed to~~ prohibit the application of pesticides to  
116 such waters ~~in the state~~ for the control of insects, aquatic

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117 weeds, ~~or~~ algae, or other pests if provided the application is  
118 performed in accordance with any of the following:

119 (a) Upon execution of the agreement provided in s.  
120 487.163(3), the department may develop a permit or other  
121 authorization as required by 33 U.S.C. s. 1342 for the  
122 application of pesticides. A person must obtain such permit or  
123 other authorization before applying pesticides to the waters of  
124 the state.

125 (b) In consultation with the Department of Agriculture and  
126 Consumer Services and the Fish and Wildlife Conservation  
127 Commission, the department shall also develop a general permit  
128 under s. 403.0885(2), for the application of pesticides.

129 (c) The department shall also enter into agreements with  
130 the Department of Agriculture and Consumer Services pursuant to  
131 a program approved by the Department of Health, in the case of  
132 insect or other pest control, and with ~~or~~ the Fish and Wildlife  
133 Conservation Commission, in the case of aquatic weed, other  
134 aquatic pests, or algae control. ~~The department is directed to~~  
135 ~~enter into interagency agreements to establish the procedures~~  
136 ~~for program approval.~~ Such agreements must shall provide for  
137 public health, welfare, and safety, as well as environmental  
138 factors, and must ensure the uniform regulation of pesticides  
139 applied to waters of the state, including provisions for the  
140 coordination of agency staff and resources, through the  
141 implementation of permitting, compliance, and enforcement  
142 activities under this section and s. 403.0885. Pesticides that  
143 are ~~Approved programs must provide that only chemicals~~ approved  
144 for a ~~the~~ particular use by the United States Environmental  
145 Protection Agency or by the Department of Agriculture and

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146 Consumer Services ~~may be employed and that they be~~ applied in  
147 accordance with registered label instructions, state standards  
148 for such application, including any permit or other  
149 authorization required by this subsection, and the provisions of  
150 the Florida Pesticide Law, part I of chapter 487, are not  
151 subject to the acute toxicity provisions of rule 62-302.500,  
152 Florida Administrative Code.

153 Section 5. Subsection (3) is added to section 487.163,  
154 Florida Statutes, to read:

155 487.163 Information; interagency cooperation.—

156 (3) The department shall enter into an agreement with the  
157 Department of Environmental Protection to ensure the uniform  
158 regulation of pesticides applied to waters of the state,  
159 including provisions for the coordination of agency staff and  
160 resources, through the implementation of permitting, compliance,  
161 and enforcement activities under ss. 403.088 and 403.0885.

162 Section 6. Subsection (7) is added to section 573.112,  
163 Florida Statutes, to read:

164 573.112 Advisory council.—

165 (7) Notwithstanding the provisions of this section, the  
166 Citrus Research and Development Foundation, Inc., a direct-  
167 support organization of the University of Florida established  
168 pursuant to s. 1004.28, shall serve as the advisory council for  
169 a citrus research marketing order, provide the department with  
170 advice on administering the order, and, in accordance with the  
171 order, conduct citrus research and perform other duties assigned  
172 by the department. Notwithstanding s. 1004.28(3), the  
173 foundation's board of directors shall be composed of 13 members,  
174 including 10 citrus growers, 2 representatives of the

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175 university's Institute of Food and Agricultural Sciences, and 1  
176 member appointed by the Commissioner of Agriculture.

177 Section 7. Subsections (1) and (6) of section 573.118,  
178 Florida Statutes, are amended to read:

179 573.118 Assessment; funds; audit; loans.—

180 (1) To provide funds to defray the necessary expenses  
181 incurred by the department in the formulation, issuance,  
182 administration, and enforcement of any marketing order, every  
183 person engaged in the production, distributing, or handling of  
184 agricultural commodities within this state, and directly  
185 affected by any marketing order, shall pay to the department, at  
186 such times and in such installments as the department may  
187 prescribe, such person's pro rata share of necessary expenses.  
188 Each person's share of expenses shall be that proportion which  
189 the total volume of agricultural commodities produced,  
190 distributed, or handled by the person during the current  
191 marketing season, or part thereof covered by such marketing  
192 order, is of the total volume of the commodities produced,  
193 distributed, or handled by all such persons during the same  
194 current marketing season or part thereof. The department, after  
195 receiving the recommendations of the advisory council, shall fix  
196 the rate of assessment on the volume of agricultural commodities  
197 sold or some other equitable basis. For convenience of  
198 collection, upon request of the department, handlers of the  
199 commodities shall pay any producer assessments. Handlers paying  
200 assessments for and on behalf of any producers may ~~shall, at~~  
201 ~~their discretion,~~ collect the producer assessments from any  
202 moneys owed by the handlers to the producers. The collected  
203 assessments shall be deposited into the appropriate General

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204 ~~Inspection~~ trust fund and ~~shall be~~ used for the sole purpose of  
205 implementing the marketing order for which the assessment was  
206 collected. The department is not subject to ~~the procedures found~~  
207 ~~in~~ s. 287.057 in the expenditure of these funds. However, the  
208 director of the Division of Marketing and Development shall file  
209 with the internal auditor of the department a certification of  
210 conditions and circumstances justifying each contract or  
211 agreement entered into without competitive bidding.

212 (6) An ~~Any~~ assessment levied upon citrus fruit under this  
213 section may not exceed the rate established in the marketing  
214 order and ~~shall be at a rate not to exceed 1 cent per standard-~~  
215 ~~packed box of citrus fruit grown and placed into the primary~~  
216 ~~channel of trade in this state. All revenues from such~~  
217 ~~assessment collected by the department~~ shall be deposited into  
218 the Citrus Inspection Trust Fund.

219 Section 8. Subsection (32) of section 581.031, Florida  
220 Statutes, is amended to read:

221 581.031 Department; powers and duties.—The department has  
222 the following powers and duties:

223 (32) To ~~The Department of Agriculture and Consumer Services~~  
224 ~~shall~~ conduct or cause to be conducted ~~these~~ research projects  
225 ~~on citrus diseases~~, including, but not limited to, citrus canker  
226 and citrus greening, which are recommended by the Florida Citrus  
227 Production Research Advisory Council, within the limits of  
228 appropriations made specifically for such purpose.

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