

By the Committees on General Government Appropriations;
Community Affairs; and Agriculture; and Senator Alexander

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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 retroactive application;
6 providing the methodology for assessing certain
7 structures or improvements used for horticulture
8 production; amending s. 369.20, F.S.; revising
9 provisions of the Florida Aquatic Weed Control Act;
10 authorizing the Fish and Wildlife Conservation
11 Commission to enter into an agreement with the
12 Department of Environmental Protection to ensure the
13 uniform regulation of pesticides applied to waters of
14 the state; amending s. 403.088, F.S.; revising
15 provisions relating to water pollution operation
16 permits; providing requirements for the application of
17 pesticides to the waters of the state; amending s.
18 487.163, F.S.; requiring that the Department of
19 Agriculture and Consumer Services enter into an
20 agreement with the Department of Environmental
21 Protection to ensure the uniform regulation of
22 pesticides; amending s. 573.112, F.S.; requiring that
23 the Citrus Research and Development Foundation provide
24 advice to the Department of Agriculture and Consumer
25 Services with respect to citrus research marketing
26 orders; amending s. 573.118, F.S.; providing for the
27 deposit of certain agricultural assessments; revising
28 the assessment rate on citrus fruit; amending s.
29 581.031, F.S.; expanding the type of research projects

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30 that may be conducted by the department; requiring the
31 Citrus Research and Development Foundation, Inc., to
32 recommend the research projects; requiring that the
33 department and representatives of the state pest
34 control industry prepare a report for the President of
35 the Senate, the Speaker of the House of
36 Representatives, and the chairpersons of specified
37 legislative committees by a certain date; requiring
38 that the report include recommendations for changes in
39 the law to provide for disciplinary action against
40 licensees of the pest control industry under certain
41 circumstances; providing that the report may also
42 address additional issues of concern to members of the
43 industry; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Paragraph (b) of subsection (3) and paragraph
48 (c) of subsection (6) of section 193.461, Florida Statutes, are
49 amended to read:

50 193.461 Agricultural lands; classification and assessment;
51 mandated eradication or quarantine program.—

52 (3)

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

58 1. In determining whether the use of the land for

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59 agricultural purposes is bona fide, the following factors may be
60 taken into consideration:

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

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

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

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

67 ~~e.5.~~ Whether an indicated effort has been made to care
68 sufficiently and adequately for the land in accordance with
69 accepted commercial agricultural practices, including, without
70 limitation, fertilizing, liming, tilling, mowing, reforesting,
71 and other accepted agricultural practices.

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

74 ~~g.7.~~ Such other factors as may ~~from time to time~~ become
75 applicable.

76 2. Offering property for sale does not constitute a primary
77 use of land and may not be the basis for denying its
78 agricultural classification if the land continues to be used
79 primarily for bona fide agricultural purposes while it is being
80 offered for sale.

81 (6)

82 (c)1. For purposes of the income methodology approach to
83 assessment of property used for agricultural purposes,
84 irrigation systems, including pumps and motors, physically
85 attached to the land shall be considered a part of the average
86 yields per acre and shall have no separately assessable
87 contributory value.

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88 2. Litter containment structures located on producing
89 poultry farms and animal waste nutrient containment structures
90 located on producing dairy farms shall be assessed by the
91 methodology described in subparagraph 1.

92 3. Structures or improvements used for horticulture
93 production which provide shade and shelter and improve water
94 quality or water conservation, as designated by the Department
95 of Agriculture and Consumer Services' interim measures or best
96 management practices adopted pursuant to s. 570.085 or s.
97 403.067(7)(c), shall be assessed by the methodology described in
98 subparagraph 1.

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

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

106 369.20 Florida Aquatic Weed Control Act.—

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

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

113 (b) Contract or enter into agreements with public or
114 private agencies or corporations for research and development of
115 aquatic plant control methods or for the performance of aquatic
116 plant control activities. The commission may enter into an

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117 agreement with the Department of Environmental Protection to
118 ensure the uniform regulation of pesticides applied to waters of
119 the state, including provision for coordinating agency staff and
120 resources, through the implementation of permitting, compliance,
121 and enforcement activities under ss. 403.088 and 403.0885;

122 (c) Construct, acquire, operate, and maintain facilities
123 and equipment; and

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

128 (9) ~~A permit issued pursuant to this section for~~ The
129 application of herbicides to waters of ~~in~~ the state for the
130 control of aquatic plants, algae, or invasive exotic plants is
131 exempt from the requirement to obtain a water pollution
132 operation permit except as provided in ss. ~~pursuant to s.~~
133 403.088 and 403.0885.

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

136 403.088 Water pollution operation permits; conditions.—

137 (1) ~~No person,~~ Without the written authorization of the
138 department, a person may not shall discharge any waste into the
139 waters of ~~within~~ the state ~~any waste~~ which, by itself or in
140 combination with the wastes of other sources, reduces the
141 quality of the receiving waters below the classification
142 established for such waters ~~them~~. However, this section does
143 ~~shall not be deemed to~~ prohibit the application of pesticides to
144 such waters ~~in the state~~ for the control of insects, aquatic
145 weeds, ~~or~~ algae, or other pests if ~~provided~~ the application is

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146 performed in accordance with this subsection.

147 (a) Upon execution of the agreement provided in s.
148 487.163(3), the department may develop a permit or other
149 authorization as required by 33 U.S.C. s. 1342 for the
150 application of pesticides. A person must obtain such permit or
151 other authorization before applying pesticides to waters of the
152 state.

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

157 (c) The department shall also enter into agreements with
158 the Department of Agriculture and Consumer Services pursuant to
159 a program approved by the Department of Health, in the case of
160 insect or other pest control, and with ~~or~~ the Fish and Wildlife
161 Conservation Commission, in the case of aquatic weed, other
162 aquatic pests, or algae control. The department is directed to
163 enter into interagency agreements to establish the procedures
164 for program approval. Such agreements must ~~shall~~ provide for
165 public health, welfare, and safety, as well as environmental
166 factors and must ensure the uniform regulation of pesticides
167 applied to waters of the state, including provision for the
168 coordination of agency staff and resources, through the
169 implementation of permitting, compliance, and enforcement
170 activities under this section and s. 403.0885. Pesticides that
171 are approved ~~programs must provide that only chemicals approved~~
172 for a ~~the~~ particular use by the United States Environmental
173 Protection Agency or by the Department of Agriculture and
174 Consumer Services ~~may be employed and that they be applied in~~

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175 accordance with registered label instructions, state standards
176 for such application, including any permit or other
177 authorization required by this subsection and ~~the provisions of~~
178 the Florida Pesticide Law, part I of chapter 487, are allowed a
179 temporary deviation from the acute toxicity provisions of the
180 department's water quality rule not to exceed the time necessary
181 to control the target pests and only if the application does not
182 reduce the quality of the receiving waters below the
183 classification for such waters and is not likely to adversely
184 affect any threatened or endangered species.

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

187 487.163 Information; interagency cooperation.—

188 (3) The department shall enter into an agreement with the
189 Department of Environmental Protection to ensure the uniform
190 regulation of pesticides applied to waters of the state,
191 including provision for the coordination of agency staff and
192 resources, through the implementation of permitting, compliance,
193 and enforcement activities under ss. 403.088 and 403.0885.

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

196 573.112 Advisory council.—

197 (7) Notwithstanding the provisions of this section, the
198 Citrus Research and Development Foundation, Inc., a direct-
199 support organization of the University of Florida established
200 pursuant to s. 1004.28, shall serve as the advisory council for
201 a citrus research marketing order, provide the department with
202 advice on administering the order, and, in accordance with the
203 order, conduct citrus research and perform other duties assigned

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204 by the department. Notwithstanding s. 1004.28(3), the
205 foundation's board of directors shall be composed of 13 members,
206 including 10 citrus growers, 2 representatives of the
207 university's Institute of Food and Agricultural Sciences, and 1
208 member appointed by the Commissioner of Agriculture.

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

211 573.118 Assessment; funds; audit; loans.—

212 (1) To provide funds to defray the necessary expenses
213 incurred by the department in the formulation, issuance,
214 administration, and enforcement of any marketing order, every
215 person engaged in the production, distributing, or handling of
216 agricultural commodities within this state, and directly
217 affected by any marketing order, shall pay to the department, at
218 such times and in such installments as the department may
219 prescribe, such person's pro rata share of necessary expenses.
220 Each person's share of expenses shall be that proportion which
221 the total volume of agricultural commodities produced,
222 distributed, or handled by the person during the current
223 marketing season, or part thereof covered by such marketing
224 order, is of the total volume of the commodities produced,
225 distributed, or handled by all such persons during the same
226 current marketing season or part thereof. The department, after
227 receiving the recommendations of the advisory council, shall fix
228 the rate of assessment on the volume of agricultural commodities
229 sold or some other equitable basis. For convenience of
230 collection, upon request of the department, handlers of the
231 commodities shall pay any producer assessments. Handlers paying
232 assessments for and on behalf of any producers may ~~shall, at~~

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233 ~~their discretion,~~ collect the producer assessments from any
234 moneys owed by the handlers to the producers. The collected
235 assessments shall be deposited into the appropriate General
236 ~~Inspection~~ trust fund and ~~shall be~~ used for the sole purpose of
237 implementing the marketing order for which the assessment was
238 collected. The department is not subject to ~~the procedures found~~
239 ~~in~~ s. 287.057 in the expenditure of these funds. However, the
240 director of the Division of Marketing and Development shall file
241 with the internal auditor of the department a certification of
242 conditions and circumstances justifying each contract or
243 agreement entered into without competitive bidding.

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

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

253 581.031 Department; powers and duties.—The department has
254 the following powers and duties:

255 (32) To The Department of Agriculture and Consumer Services
256 shall conduct or cause to be conducted ~~those~~ research projects
257 ~~on citrus diseases,~~ including, but not limited to, citrus canker
258 and citrus greening, which are recommended by the Citrus
259 Research and Development Foundation, Inc. Florida Citrus
260 Production Research Advisory Council, within the limits of
261 appropriations made specifically for such purpose.

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262 Section 9. The Department of Agriculture and Consumer
263 Services shall meet with duly authorized representatives of
264 established organizations representing the Florida pest control
265 industry and prepare a report that shall be submitted to the
266 President of the Senate, the Speaker of the House of
267 Representatives, the chairperson of the Senate Committee on
268 Agriculture, and the chairperson of the House Committee on
269 Agribusiness by January 1, 2011. The report shall include
270 recommended amendments to chapter 482, Florida Statutes, which
271 provide for disciplinary action to be taken against licensees
272 who violate laws or rules pertaining to the pretreatment of soil
273 to protect newly constructed homes, pest control at sensitive
274 facilities such as schools and nursing homes, and also the
275 fumigation of existing homes for protection against termite
276 damage, thereby providing additional safeguards for consumers.
277 The report may also address other issues of concern to the
278 department and to members of the industry, such as changes to
279 requirements for professional liability insurance coverage or
280 the amount of bond required, duties and responsibilities of a
281 certified operator, issuance of a centralized pest control
282 service center license, and limited certification for commercial
283 wildlife management personnel.

284 Section 10. This act shall take effect upon becoming a law.