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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; amending s. 601.07, F.S.; providing that the  
44 executive offices of the Department of Citrus are  
45 located in Bartow; providing an effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

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

52 193.461 Agricultural lands; classification and assessment;  
53 mandated eradication or quarantine program.—

54 (3)

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

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59 agricultural use of the land.

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

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

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

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

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

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

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

76 ~~g.7.~~ Such other factors as may ~~from time to time~~ become  
77 applicable.

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

83 (6)

84 (c)1. For purposes of the income methodology approach to  
85 assessment of property used for agricultural purposes,  
86 irrigation systems, including pumps and motors, physically  
87 attached to the land shall be considered a part of the average

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88 yields per acre and shall have no separately assessable  
89 contributory value.

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

94 3. Structures or improvements used for horticultural  
95 production, which are for frost and freeze protection and  
96 consistent with the Department of Agriculture and Consumer  
97 Services' interim measures or best management practices adopted  
98 pursuant to s. 570.085 or s. 403.067(7)(c), shall be assessed  
99 pursuant to the methodology described in subparagraph 1.

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

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

107 369.20 Florida Aquatic Weed Control Act.—

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

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

114 (b) Contract or enter into agreements with public or  
115 private agencies or corporations for research and development of  
116 aquatic plant control methods or for the performance of aquatic

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

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

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

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

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

137 403.088 Water pollution operation permits; conditions.—

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

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146 weeds, ~~or~~ algae, or other pests if provided the application is  
147 performed in accordance with this subsection.

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

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

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

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

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

188 487.163 Information; interagency cooperation.—

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

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

197 573.112 Advisory council.—

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

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

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

212 573.118 Assessment; funds; audit; loans.—

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



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

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

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

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

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

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262 appropriations made specifically for such purpose.

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

285       Section 10. Section 601.07, Florida Statutes, is amended to  
286 read:

287       601.07 Location of executive offices.—The executive offices  
288 of the Department of Citrus shall be established and maintained  
289 at Bartow ~~Lakeland~~.

290       Section 11. This act shall take effect upon becoming a law.