

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

29 | 573.118, F.S.; providing for the deposit of certain
 30 | agricultural assessments; revising the assessment rate on
 31 | citrus fruit; amending s. 581.031, F.S.; expanding the
 32 | type of research projects that may be conducted by the
 33 | Department of Agriculture and Consumer Services; amending
 34 | s. 601.07, F.S.; revising the location of the executive
 35 | offices of the Department of Citrus; providing an
 36 | effective date.

37 |

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

39 |

40 | Section 1. Paragraph (b) of subsection (3) of section
 41 | 193.461, Florida Statutes, is amended to read:

42 | 193.461 Agricultural lands; classification and assessment;
 43 | mandated eradication or quarantine program.—

44 | (3)

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

50 | 1. In determining whether the use of the land for
 51 | agricultural purposes is bona fide, the following factors may be
 52 | taken into consideration:

53 | a.1. The length of time the land has been so used.

54 | b.2. Whether the use has been continuous.

55 | c.3. The purchase price paid.

56 | d.4. Size, as it relates to specific agricultural use, but

57 ~~in no event shall~~ a minimum acreage may not be required for
 58 agricultural assessment.

59 ~~e.5.~~ Whether an indicated effort has been made to care
 60 sufficiently and adequately for the land in accordance with
 61 accepted commercial agricultural practices, including, without
 62 limitation, fertilizing, liming, tilling, mowing, reforesting,
 63 and other accepted agricultural practices.

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

66 ~~g.7.~~ Such other factors as may ~~from time to time~~ become
 67 applicable.

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

73 Section 2. The amendment by this act to s. 193.461(3)(b),
 74 Florida Statutes, is remedial and clarifying in nature and
 75 applies retroactively to all parcels for which a final court
 76 order has not yet been entered as of the effective date of this
 77 act.

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

80 369.20 Florida Aquatic Weed Control Act.—

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

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

87 (b) Contract or enter into agreements with public or
 88 private agencies or corporations for research and development of
 89 aquatic plant control methods or for the performance of aquatic
 90 plant control activities. The commission may enter into an
 91 agreement with the Department of Environmental Protection to
 92 ensure that pesticides applied to the waters of the state are
 93 regulated uniformly, including provisions for the coordination
 94 of agency staff and resources, through the implementation of
 95 permitting, compliance, and enforcement activities under ss.
 96 403.088 and 403.0885;

97 (c) Construct, acquire, operate, and maintain facilities
 98 and equipment; and

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

103 (9) ~~A permit issued pursuant to this section for~~ The
 104 application of herbicides to waters of ~~in~~ the state for the
 105 control of aquatic plants, algae, or invasive exotic plants is
 106 exempt from the requirement to obtain a water pollution
 107 operation permit except as provided in ss. ~~pursuant to s.~~
 108 403.088 and 403.0885.

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

111 403.088 Water pollution operation permits; conditions.—

112 (1) ~~No person,~~ Without the written authorization of the

113 department, a person may not ~~shall~~ discharge any waste into the
 114 waters of ~~within~~ the state ~~any waste~~ which, by itself or in
 115 combination with the wastes of other sources, reduces the
 116 quality of the receiving waters below the classification
 117 established for such waters ~~them~~. However, this section does
 118 ~~shall not be deemed to~~ prohibit the application of pesticides to
 119 such waters ~~in the state~~ for the control of insects, aquatic
 120 weeds, ~~or~~ algae, or other pests if ~~provided~~ the application is
 121 performed in accordance with any of the following:

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

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

132 (c) The department shall also enter into agreements with
 133 the Department of Agriculture and Consumer Services pursuant to
 134 a program approved by the Department of Health, in the case of
 135 insect or other pest control, and with ~~or~~ the Fish and Wildlife
 136 Conservation Commission, in the case of aquatic weed, other
 137 aquatic pests, or algae control. ~~The department is directed to~~
 138 ~~enter into interagency agreements to establish the procedures~~
 139 ~~for program approval.~~ Such agreements must ~~shall~~ provide for
 140 public health, welfare, and safety, as well as environmental

141 factors, and must ensure that pesticides applied to waters of
 142 the state are regulated uniformly, including provisions for the
 143 coordination of agency staff and resources, through the
 144 implementation of permitting, compliance, and enforcement
 145 activities under s. 403.0885 and this section. Pesticides that
 146 are ~~Approved programs must provide that only chemicals~~ approved
 147 for a ~~the~~ particular use by the United States Environmental
 148 Protection Agency or by the Department of Agriculture and
 149 Consumer Services ~~may be employed and that they be~~ applied in
 150 accordance with registered label instructions, state standards
 151 for such application, including any permit or other
 152 authorization required by this subsection, and ~~the provisions of~~
 153 the Florida Pesticide Law, part I of chapter 487, are not
 154 subject to the provisions of rules adopted by the department
 155 under this chapter which prohibit the surface waters of the
 156 state from containing acutely toxic components of discharges.

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

159 487.163 Information; interagency cooperation.—

160 (3) The department shall enter into an agreement with the
 161 Department of Environmental Protection to ensure that pesticides
 162 applied to waters of the state are regulated uniformly,
 163 including provisions for the coordination of agency staff and
 164 resources, through the implementation of permitting, compliance,
 165 and enforcement activities under ss. 403.088 and 403.0885.

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

168 573.112 Advisory council.—

169 (7) Notwithstanding any provision of this section, the
 170 Citrus Research and Development Foundation, Inc., a direct-
 171 support organization of the University of Florida established
 172 pursuant to s. 1004.28, shall serve as the advisory council for
 173 a citrus research marketing order, provide the department with
 174 advice on administering the order, and, in accordance with the
 175 order, conduct citrus research and perform other duties assigned
 176 by the department. Notwithstanding s. 1004.28(3), the
 177 foundation's board of directors shall be composed of 13 members,
 178 including 10 citrus growers, 2 representatives of the
 179 university's Institute of Food and Agricultural Sciences, and 1
 180 member appointed by the Commissioner of Agriculture.

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

183 573.118 Assessment; funds; audit; loans.—

184 (1) To provide funds to defray the necessary expenses
 185 incurred by the department in the formulation, issuance,
 186 administration, and enforcement of any marketing order, every
 187 person engaged in the production, distributing, or handling of
 188 agricultural commodities within this state, and directly
 189 affected by any marketing order, shall pay to the department, at
 190 such times and in such installments as the department may
 191 prescribe, such person's pro rata share of necessary expenses.
 192 Each person's share of expenses shall be that proportion which
 193 the total volume of agricultural commodities produced,
 194 distributed, or handled by the person during the current
 195 marketing season, or part thereof covered by such marketing
 196 order, is of the total volume of the commodities produced,

197 distributed, or handled by all such persons during the same
 198 current marketing season or part thereof. The department, after
 199 receiving the recommendations of the advisory council, shall fix
 200 the rate of assessment on the volume of agricultural commodities
 201 sold or some other equitable basis. For convenience of
 202 collection, upon request of the department, handlers of the
 203 commodities shall pay any producer assessments. Handlers paying
 204 assessments for and on behalf of any producers may ~~shall, at~~
 205 ~~their discretion,~~ collect the producer assessments from any
 206 moneys owed by the handlers to the producers. The collected
 207 assessments shall be deposited into the appropriate ~~General~~
 208 ~~Inspection~~ trust fund and ~~shall be~~ used for the sole purpose of
 209 implementing the marketing order for which the assessment was
 210 collected. The department is not subject to ~~the procedures found~~
 211 ~~in~~ s. 287.057 in the expenditure of these funds. However, the
 212 director of the Division of Marketing and Development shall file
 213 with the internal auditor of the department a certification of
 214 conditions and circumstances justifying each contract or
 215 agreement entered into without competitive bidding.

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

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

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225 581.031 Department; powers and duties.—The department has
 226 the following powers and duties:

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

234 Section 9. Section 601.07, Florida Statutes, is amended to
 235 read:

236 601.07 Location of executive offices.—The executive
 237 offices of the Department of Citrus shall be established and
 238 maintained at Bartow ~~Lakeland~~.

239 Section 10. This act shall take effect July 1, 2010.