

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 providing the methodology for assessing certain
7 agricultural improvements, structures, or equipment
8 located on agricultural land and used for specified
9 purposes; amending s. 369.20, F.S.; authorizing the Fish
10 and Wildlife Conservation Commission to enter into an
11 agreement with the Department of Environmental Protection
12 for the uniform regulation of pesticides applied to waters
13 of the state; revising exemptions from water pollution
14 permits; amending s. 403.088, F.S.; providing permits for
15 applying pesticides to the waters of the state; requiring
16 the Department of Environmental Protection to enter into
17 agreements with the Department of Agriculture and Consumer
18 Services and the commission for the uniform regulation of
19 pesticides applied to the waters of the state; authorizing
20 temporary deviations from certain provisions of rules
21 adopted by the Department of Environmental Protection for
22 certain pesticides under certain conditions; amending s.
23 487.163, F.S.; requiring the Department of Agriculture and
24 Consumer Services to enter into an agreement with the
25 Department of Environmental Protection for the uniform
26 regulation of pesticides applied to the waters of the
27 state; amending s. 573.112, F.S.; providing that the
28 Citrus Research and Development Foundation shall provide

29 | advice to the Department of Agriculture and Consumer
 30 | Services with respect to citrus research marketing orders,
 31 | conduct citrus research, and perform other duties assigned
 32 | by the department; amending s. 573.118, F.S.; providing
 33 | for the deposit of certain agricultural assessments;
 34 | revising the assessment rate on citrus fruit; amending s.
 35 | 581.031, F.S.; expanding the type of research projects
 36 | that may be conducted by the Department of Agriculture and
 37 | Consumer Services; amending s. 601.07, F.S.; revising the
 38 | location of the executive offices of the Department of
 39 | Citrus; providing an effective date.

40 |

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

42 |

43 | Section 1. Paragraph (b) of subsection (3) and paragraph
 44 | (c) of subsection (6) of section 193.461, Florida Statutes, are
 45 | amended to read:

46 | 193.461 Agricultural lands; classification and assessment;
 47 | mandated eradication or quarantine program.—

48 | (3)

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

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

- 57 | ~~a.1.~~ The length of time the land has been so used.
- 58 | ~~b.2.~~ Whether the use has been continuous.
- 59 | ~~c.3.~~ The purchase price paid.
- 60 | ~~d.4.~~ Size, as it relates to specific agricultural use, but
- 61 | ~~in no event shall~~ a minimum acreage may not be required for
- 62 | agricultural assessment.
- 63 | ~~e.5.~~ Whether an indicated effort has been made to care
- 64 | sufficiently and adequately for the land in accordance with
- 65 | accepted commercial agricultural practices, including, without
- 66 | limitation, fertilizing, liming, tilling, mowing, reforesting,
- 67 | and other accepted agricultural practices.
- 68 | ~~f.6.~~ Whether the ~~such~~ land is under lease and, if so, the
- 69 | effective length, terms, and conditions of the lease.
- 70 | ~~g.7.~~ Such other factors as may ~~from time to time~~ become
- 71 | applicable.

72 | 2. Offering property for sale does not constitute a

73 | primary use of land and may not be the basis for denying an

74 | agricultural classification if the land continues to be used

75 | primarily for bona fide agricultural purposes while it is being

76 | offered for sale.

77 | (6)

78 | (c)1. For purposes of the income methodology approach to

79 | assessment of property used for agricultural purposes,

80 | irrigation systems, including pumps and motors, physically

81 | attached to the land shall be considered a part of the average

82 | yields per acre and shall have no separately assessable

83 | contributory value.

84 | 2. Litter containment structures located on producing

85 poultry farms and animal waste nutrient containment structures
 86 located on producing dairy farms shall be assessed by the
 87 methodology described in subparagraph 1.

88 3. Agricultural improvements, structures, or equipment
 89 located on land classified as agricultural land pursuant to s.
 90 193.461 and used as a natural resource conservation practice or
 91 to implement state-adopted best-management practices shall be
 92 assessed by the methodology described in subparagraph 1.

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

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

100 369.20 Florida Aquatic Weed Control Act.—

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

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

107 (b) Contract or enter into agreements with public or
 108 private agencies or corporations for research and development of
 109 aquatic plant control methods or for the performance of aquatic
 110 plant control activities. The commission may enter into an
 111 agreement with the Department of Environmental Protection to
 112 ensure that pesticides applied to the waters of the state are

113 regulated uniformly, including provisions for the coordination
 114 of agency staff and resources, through the implementation of
 115 permitting, compliance, and enforcement activities under ss.
 116 403.088 and 403.0885;

117 (c) Construct, acquire, operate, and maintain facilities
 118 and equipment; and

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

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

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

131 403.088 Water pollution operation permits; conditions.—

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

141 performed in accordance with this section.

142 (a) Upon execution of the agreement required in s.
 143 487.163(3), the department may develop a permit or other
 144 authorization as required by 33 U.S.C. s. 1342 for the
 145 application of pesticides. A person must obtain such permit or
 146 other authorization before applying pesticides to the waters of
 147 the state.

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

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

CS/CS/HB 981

2010

169 Consumer Services ~~may be employed and that they be~~ applied in
 170 accordance with registered label instructions, state standards
 171 for such application, including any permit or other
 172 authorization required by this subsection, and the provisions of
 173 the Florida Pesticide Law, part I of chapter 487, are allowed a
 174 temporary deviation from the acute toxicity provisions of rule
 175 62-302.500, Florida Administrative Code, not to exceed the time
 176 necessary to control the target pests and only if the
 177 application does not reduce the quality of the receiving waters
 178 below the classification for such waters and is not likely to
 179 adversely affect any threatened or endangered species.

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

182 487.163 Information; interagency cooperation.—

183 (3) The department shall enter into an agreement with the
 184 Department of Environmental Protection to ensure that pesticides
 185 applied to waters of the state are regulated uniformly,
 186 including provisions for the coordination of agency staff and
 187 resources, through the implementation of permitting, compliance,
 188 and enforcement activities under ss. 403.088 and 403.0885.

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

191 573.112 Advisory council.—

192 (7) Notwithstanding any provision of this section, the
 193 Citrus Research and Development Foundation, Inc., a direct-
 194 support organization of the University of Florida established
 195 pursuant to s. 1004.28, shall serve as the advisory council for
 196 a citrus research marketing order, provide the department with

CS/CS/HB 981

2010

197 advice on administering the order, and, in accordance with the
198 order, conduct citrus research and perform other duties assigned
199 by the department. Notwithstanding s. 1004.28(3), the
200 foundation's board of directors shall be composed of 13 members,
201 including 10 citrus growers, 2 representatives of the
202 university's Institute of Food and Agricultural Sciences, and 1
203 member appointed by the Commissioner of Agriculture.

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

206 573.118 Assessment; funds; audit; loans.—

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

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

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

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

248 581.031 Department; powers and duties.—The department has
 249 the following powers and duties:

250 (32) To ~~The Department of Agriculture and Consumer~~
 251 ~~Services~~ shall conduct or cause to be conducted ~~those~~ research
 252 projects ~~on citrus diseases,~~ including, but not limited to,

CS/CS/HB 981

2010

253 citrus canker and citrus greening, which are recommended by the
254 ~~Florida Citrus Production~~ Research and Development Foundation,
255 Inc. Advisory Council, within the limits of appropriations made
256 specifically for such purpose.

257 Section 9. Section 601.07, Florida Statutes, is amended to
258 read:

259 601.07 Location of executive offices.—The executive
260 offices of the Department of Citrus shall be established and
261 maintained at Bartow ~~Lakeland~~.

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