

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

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

39 |

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

41 |

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

45 | 193.461 Agricultural lands; classification and assessment;
 46 | mandated eradication or quarantine program.—

47 | (3)

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

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

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

57 | ~~b.2.~~ Whether the use has been continuous.

58 | ~~c.3.~~ The purchase price paid.

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

60 | ~~in no event shall~~ a minimum acreage may not be required for

61 | agricultural assessment.

62 | ~~e.5.~~ Whether an indicated effort has been made to care

63 | sufficiently and adequately for the land in accordance with

64 | accepted commercial agricultural practices, including, without

65 | limitation, fertilizing, liming, tilling, mowing, reforesting,

66 | and other accepted agricultural practices.

67 | ~~f.6.~~ Whether the ~~such~~ land is under lease and, if so, the

68 | effective length, terms, and conditions of the lease.

69 | ~~g.7.~~ Such other factors as may ~~from time to time~~ become

70 | applicable.

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

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

73 | agricultural classification if the land continues to be used

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

75 | offered for sale.

76 | (6)

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

78 | assessment of property used for agricultural purposes,

79 | irrigation systems, including pumps and motors, physically

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

81 | yields per acre and shall have no separately assessable

82 | contributory value.

83 | 2. Litter containment structures located on producing

84 | poultry farms and animal waste nutrient containment structures

85 | located on producing dairy farms shall be assessed by the
 86 | methodology described in subparagraph 1.

87 | 3. Structures or improvements used for horticultural
 88 | production that provide shade and shelter and improve the
 89 | quality or conservation of water, as designated by the
 90 | Department of Agriculture and Consumer Services' interim
 91 | measures or best management practices adopted pursuant to s.
 92 | 570.085 or s. 403.067(7) (c), shall be assessed by the
 93 | methodology described in subparagraph 1.

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

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

101 | 369.20 Florida Aquatic Weed Control Act.—

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

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

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

113 ensure that pesticides applied to the waters of the state are
 114 regulated uniformly, including provisions for the coordination
 115 of agency staff and resources, through the implementation of
 116 permitting, compliance, and enforcement activities under ss.
 117 403.088 and 403.0885;

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

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

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

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

132 403.088 Water pollution operation permits; conditions.—

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

141 weeds, ~~or~~ algae, or other pests if provided the application is
 142 performed in accordance with this section.

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

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

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

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

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

184 487.163 Information; interagency cooperation.—

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

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

193 573.112 Advisory council.—

194 (7) Notwithstanding any provision of this section, the
 195 Citrus Research and Development Foundation, Inc., a direct-
 196 support organization of the University of Florida established

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

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

208 573.118 Assessment; funds; audit; loans.—

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

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

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

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

250 581.031 Department; powers and duties.—The department has
 251 the following powers and duties:

252 (32) To ~~The Department of Agriculture and Consumer~~

CS/CS/CS/HB 981

2010

253 ~~Services shall~~ conduct or cause to be conducted ~~these~~ research
254 projects ~~on citrus diseases~~, including, but not limited to,
255 citrus canker and citrus greening, which are recommended by the
256 ~~Florida Citrus Production~~ Research and Development Foundation,
257 Inc. Advisory Council, within the limits of appropriations made
258 specifically for such purpose.

259 Section 9. Section 601.07, Florida Statutes, is amended to
260 read:

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

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