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CS/CS/CS/HB 981, Engrossed 1

2010 Legislature

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

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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 | requiring the department and representatives of the state
 39 | pest control industry to submit a report to the
 40 | Legislature; requiring that the report include
 41 | recommendations for changes in the law to provide for
 42 | disciplinary action against licensees of the pest control
 43 | industry under certain circumstances; providing that the
 44 | report may also address additional issues of concern to
 45 | the department and members of the industry; providing an
 46 | effective date.

47 |
 48 | Be It Enacted by the Legislature of the State of Florida:

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

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

55 | (3)

56 | (b) Subject to the restrictions specified ~~set out~~ in this

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57 | section, only lands that ~~which~~ are used primarily for bona fide
 58 | agricultural purposes shall be classified agricultural. The term
 59 | "bona fide agricultural purposes" means good faith commercial
 60 | agricultural use of the land.

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

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

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

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

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

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

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

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

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

84 | (6)

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

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

95 3. Structures or improvements used in horticultural
 96 production for frost or freeze protection, which structures or
 97 improvements are consistent with the Department of Agriculture
 98 and Consumer Services' interim measures or best management
 99 practices adopted pursuant to s. 570.085 or s. 403.067(7)(c),
 100 shall be assessed by the methodology described in subparagraph
 101 1.

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

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

109 369.20 Florida Aquatic Weed Control Act.—

110 (4) The commission shall also promote, develop, and
 111 support research activities directed toward the more effective
 112 and efficient control of aquatic plants. In the furtherance of

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113 | this purpose, the commission may ~~is authorized to~~:

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

116 | (b) Contract or enter into agreements with public or
117 | private agencies or corporations for research and development of
118 | aquatic plant control methods or for the performance of aquatic
119 | plant control activities. The commission may enter into an
120 | agreement with the Department of Environmental Protection to
121 | ensure that pesticides applied to the waters of the state are
122 | regulated uniformly, including provisions for the coordination
123 | of agency staff and resources, through the implementation of
124 | permitting, compliance, and enforcement activities under ss.
125 | 403.088 and 403.0885;

126 | (c) Construct, acquire, operate, and maintain facilities
127 | and equipment; and

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

132 | (9) ~~A permit issued pursuant to this section for~~ The
133 | application of herbicides to waters of ~~in~~ the state for the
134 | control of aquatic plants, algae, or invasive exotic plants is
135 | exempt from the requirement to obtain a water pollution
136 | operation permit except as provided in ss. ~~pursuant to s.~~
137 | 403.088 and 403.0885.

138 | Section 4. Subsection (1) of section 403.088, Florida
139 | Statutes, is amended to read:

140 | 403.088 Water pollution operation permits; conditions.—

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

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

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

161 (c) The department shall also enter into agreements with
 162 the Department of Agriculture and Consumer Services ~~pursuant to~~
 163 ~~a program approved by the Department of Health,~~ in the case of
 164 insect or other pest control, and with ~~or~~ the Fish and Wildlife
 165 Conservation Commission~~,~~ in the case of aquatic weed, other
 166 aquatic pests, or algae control. ~~The department is directed to~~
 167 ~~enter into interagency agreements to establish the procedures~~
 168 ~~for program approval.~~ Such agreements must ~~shall~~ provide for

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169 public health, welfare, and safety, as well as environmental
 170 factors, and must ensure that pesticides applied to waters of
 171 the state are regulated uniformly, including provisions for the
 172 coordination of agency staff and resources, through the
 173 implementation of permitting, compliance, and enforcement
 174 activities under s. 403.0885 and this section. Pesticides that
 175 are ~~Approved programs must provide that only chemicals approved~~
 176 ~~for a the particular use by the United States Environmental~~
 177 ~~Protection Agency or by the Department of Agriculture and~~
 178 ~~Consumer Services may be employed and that they be applied in~~
 179 ~~accordance with registered label instructions, state standards~~
 180 ~~for such application, including any permit or other~~
 181 ~~authorization required by this subsection, and the provisions of~~
 182 ~~the Florida Pesticide Law, part I of chapter 487, are allowed a~~
 183 ~~temporary deviation from the acute toxicity provisions of the~~
 184 ~~department's rule establishing surface water quality standards,~~
 185 ~~not to exceed the time necessary to control the target pests and~~
 186 ~~only if the application does not reduce the quality of the~~
 187 ~~receiving waters below the classification for such waters and is~~
 188 ~~not likely to adversely affect any threatened or endangered~~
 189 ~~species.~~

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

192 487.163 Information; interagency cooperation.—

193 (3) The department shall enter into an agreement with the
 194 Department of Environmental Protection to ensure that pesticides
 195 applied to waters of the state are regulated uniformly,
 196 including provisions for the coordination of agency staff and

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197 resources, through the implementation of permitting, compliance,
 198 and enforcement activities under ss. 403.088 and 403.0885.

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

201 573.112 Advisory council.—

202 (7) Notwithstanding any provision of this section, the
 203 Citrus Research and Development Foundation, Inc., a direct-
 204 support organization of the University of Florida established
 205 pursuant to s. 1004.28, shall serve as the advisory council for
 206 a citrus research marketing order, provide the department with
 207 advice on administering the order, and, in accordance with the
 208 order, conduct citrus research and perform other duties assigned
 209 by the department. Notwithstanding s. 1004.28(3), the
 210 foundation's board of directors shall be composed of 13 members,
 211 including 10 citrus growers, 2 representatives of the
 212 university's Institute of Food and Agricultural Sciences, and 1
 213 member appointed by the Commissioner of Agriculture.

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

216 573.118 Assessment; funds; audit; loans.—

217 (1) To provide funds to defray the necessary expenses
 218 incurred by the department in the formulation, issuance,
 219 administration, and enforcement of any marketing order, every
 220 person engaged in the production, distributing, or handling of
 221 agricultural commodities within this state, and directly
 222 affected by any marketing order, shall pay to the department, at
 223 such times and in such installments as the department may
 224 prescribe, such person's pro rata share of necessary expenses.

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225 Each person's share of expenses shall be that proportion which
 226 the total volume of agricultural commodities produced,
 227 distributed, or handled by the person during the current
 228 marketing season, or part thereof covered by such marketing
 229 order, is of the total volume of the commodities produced,
 230 distributed, or handled by all such persons during the same
 231 current marketing season or part thereof. The department, after
 232 receiving the recommendations of the advisory council, shall fix
 233 the rate of assessment on the volume of agricultural commodities
 234 sold or some other equitable basis. For convenience of
 235 collection, upon request of the department, handlers of the
 236 commodities shall pay any producer assessments. Handlers paying
 237 assessments for and on behalf of any producers may ~~shall, at~~
 238 ~~their discretion,~~ collect the producer assessments from any
 239 moneys owed by the handlers to the producers. The collected
 240 assessments shall be deposited into the appropriate ~~General~~
 241 ~~Inspection~~ trust fund and ~~shall be~~ used for the sole purpose of
 242 implementing the marketing order for which the assessment was
 243 collected. The department is not subject to ~~the procedures found~~
 244 ~~in~~ s. 287.057 in the expenditure of these funds. However, the
 245 director of the Division of Marketing and Development shall file
 246 with the internal auditor of the department a certification of
 247 conditions and circumstances justifying each contract or
 248 agreement entered into without competitive bidding.

249 (6) An ~~Any~~ assessment levied upon citrus fruit under this
 250 section may not exceed the rate established in the marketing
 251 order and ~~shall be at a rate not to exceed 1 cent per standard-~~
 252 ~~packed box of citrus fruit grown and placed into the primary~~

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253 ~~channel of trade in this state. All revenues from such~~
 254 ~~assessment collected by the department~~ shall be deposited into
 255 the Citrus Inspection Trust Fund.

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

258 581.031 Department; powers and duties.—The department has
 259 the following powers and duties:

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

267 Section 9. Section 601.07, Florida Statutes, is amended to
 268 read:

269 601.07 Location of executive offices.—The executive
 270 offices of the Department of Citrus shall be established and
 271 maintained at Bartow Lakeland.

272 Section 10. The Department of Agriculture and Consumer
 273 Services shall meet with duly authorized representatives of
 274 established organizations representing the state's pest control
 275 industry and shall prepare and submit a report to the President
 276 of the Senate, the Speaker of the House of Representatives, the
 277 chair of the Senate Committee on Agriculture, and the chair of
 278 the House Committee on Agribusiness by January 1, 2011. The
 279 report shall include recommended amendments to chapter 482,
 280 Florida Statutes, that provide for disciplinary action to be

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281 taken against licensees who violate laws or rules pertaining to
282 the pretreatment of soil to protect newly constructed homes,
283 pest control at sensitive facilities such as schools and nursing
284 homes, and the fumigation of existing homes for protection
285 against termite damage, thereby providing additional safeguards
286 for consumers. The report may also address other issues of
287 concern to the department and to members of the industry, such
288 as changes to requirements for professional liability insurance
289 coverage or the amount of bond required, duties and
290 responsibilities of a certified operator, issuance of a
291 centralized pest control service center license, and limited
292 certification for commercial wildlife management personnel.

293 Section 11. This act shall take effect July 1, 2010.