

1 A bill to be entitled

2 An act relating to agriculture; amending s. 193.461,  
3 F.S.; providing that participation in a water  
4 retention program may be considered a nonincome-  
5 producing use under certain circumstances; providing a  
6 date by which such classification is repealed;  
7 amending s. 212.02, F.S.; revising and providing  
8 definitions; amending s. 212.0501, F.S.; providing  
9 that certain uses of diesel fuel by a qualified  
10 agricultural producer are exempt from the sales and  
11 use tax imposed under ch. 212, F.S.; deleting a  
12 requirement that a purchaser or lessee sign an  
13 exclusive use certificate; amending s. 212.08, F.S.;  
14 providing that the use of certain farm equipment by a  
15 qualified agricultural producer is exempt from the  
16 sales and use tax imposed under ch. 212, F.S.;  
17 deleting a requirement that a purchaser, renter, or  
18 lessee sign an exclusive use certificate; providing  
19 that certain items in agricultural use, certain nets,  
20 gas or electricity used for agricultural purposes, and  
21 growth enhancers or performance enhancers used by a  
22 qualified agricultural producer for cattle are exempt  
23 from the sales and use tax imposed under ch. 212,  
24 F.S.; deleting a requirement that a purchaser or  
25 lessee of certain items in agricultural use or certain  
26 nets sign an exclusive use certificate; providing that

27 a qualified agricultural producer is exempt from sales  
28 and use tax imposed on feeds for poultry, ostriches,  
29 and livestock; providing that certain products are  
30 exempt for use in home vegetable gardens; requiring a  
31 purchaser or lessee to sign an exclusive use  
32 certificate; creating s. 212.0802, F.S.; providing  
33 criteria for a qualified agricultural producer;  
34 requiring a qualified agricultural producer to apply  
35 for an agricultural sales and use tax exemption  
36 certificate from the Department of Revenue; requiring  
37 the department to issue a wallet-sized card containing  
38 the information provided on the tax exemption  
39 certificate; authorizing the department to adopt  
40 rules, establish an oversight board, direct staff, and  
41 charge annual fees; providing criteria for the  
42 department to determine eligibility for designation as  
43 a qualified agricultural producer; providing that  
44 possession by a seller, lessor, or other dealer of a  
45 written exemption certification by the purchaser,  
46 renter, or lessee relieves the seller, lessor, or  
47 dealer from the responsibility of collecting tax on  
48 nontaxable amounts; providing an effective date.

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Subsection (7) of section 193.461, Florida

53 Statutes, is amended to read:

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

56 (7) (a) Lands classified for assessment purposes as  
57 agricultural lands which are taken out of production by a ~~any~~  
58 state or federal eradication or quarantine program shall  
59 continue to be classified as agricultural lands for the duration  
60 of such program or successor programs. Lands under these  
61 programs which are converted to fallow~~r~~ or otherwise nonincome-  
62 producing uses shall continue to be classified as agricultural  
63 lands and shall be assessed at a de minimis value of up to no  
64 ~~more than~~ \$50 per acre, on a single year assessment methodology;  
65 however, lands converted to other income-producing agricultural  
66 uses permissible under such programs shall be assessed pursuant  
67 to this section. Land under a mandated eradication or quarantine  
68 program which is diverted from an agricultural to a  
69 nonagricultural use shall be assessed under s. 193.011.

70 (b) Participation in a water retention program sponsored  
71 by a water management district which requires flooding of land  
72 that is assessed at a de minimis value under paragraph (a) is  
73 considered a nonincome-producing use if payments to the owner  
74 under the program do not exceed the reasonable expenses  
75 associated with program participation. This paragraph expires on  
76 December 31, 2020.

77 Section 2. Subsections (30) and (32) of section 212.02,  
78 Florida Statutes, are amended, and subsection (35) is added to

79 that section, to read:

80 212.02 Definitions.—The following terms and phrases when  
 81 used in this chapter have the meanings ascribed to them in this  
 82 section, except where the context clearly indicates a different  
 83 meaning:

84 (30) "Power farm equipment" means moving or stationary  
 85 equipment involved in agricultural production which ~~that~~  
 86 contains within itself the means for its own propulsion or power  
 87 and moving or stationary equipment that is dependent upon an  
 88 external power source to perform its functions.

89 (32) "Agricultural production" means the production of  
 90 plants and animals useful to humans, including the preparation,  
 91 planting, cultivating, irrigating, ~~or~~ harvesting, transporting,  
 92 or storing of these products or any other practices necessary to  
 93 accomplish production through the first point of sale ~~harvest~~  
 94 ~~phase,~~ and includes aquaculture, horticulture, floriculture,  
 95 viticulture, forestry, dairy, livestock, poultry, bees, and any  
 96 and all forms of farm products and farm production.

97 (35) "Qualified agricultural producer" means a producer of  
 98 agricultural commodities that meets one of the criteria  
 99 specified in s. 212.0802(1).

100 Section 3. Subsections (3) and (5) of section 212.0501,  
 101 Florida Statutes, are amended to read:

102 212.0501 Tax on diesel fuel for business purposes;  
 103 purchase, storage, and use.—

104 (3) For purposes of this section, "consumption, use, or

105 storage by a trade or business" does not include those uses of  
 106 diesel fuel specifically exempt on account of residential  
 107 purposes; diesel fuel used ~~or~~ in a ~~any~~ tractor, a vehicle, or  
 108 other equipment used by a qualified agricultural producer  
 109 exclusively on a farm or for processing farm products on the  
 110 farm, no part of which diesel fuel is used in any licensed motor  
 111 vehicle on the public highways of this state; or the purchase or  
 112 storage of diesel fuel held for resale.

113 (5) Diesel fuel upon which the fuel taxes pursuant to  
 114 chapter 206 have been paid is exempt from the tax imposed by  
 115 this chapter. Liquefied petroleum gas or other fuel used by a  
 116 qualified agricultural producer to heat a structure in which  
 117 started pullets or broilers are raised is exempt from the tax  
 118 imposed by this chapter; ~~however, such exemption shall not be~~  
 119 ~~allowed unless the purchaser or lessee signs a certificate~~  
 120 ~~stating that the fuel to be exempted is for the exclusive use~~  
 121 ~~designated herein.~~

122 Section 4. Subsection (3), paragraphs (a), (e), and (l) of  
 123 subsection (5), and paragraph (d) of subsection (7) of section  
 124 212.08, Florida Statutes, are amended, and paragraph (kkk) is  
 125 added to subsection (7) of that section, to read:

126 212.08 Sales, rental, use, consumption, distribution, and  
 127 storage tax; specified exemptions.—The sale at retail, the  
 128 rental, the use, the consumption, the distribution, and the  
 129 storage to be used or consumed in this state of the following  
 130 are hereby specifically exempt from the tax imposed by this

131 chapter.

132 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—A qualified  
133 agricultural producer is exempt from ~~There shall be no tax on~~  
134 ~~the sale, rental, lease, use, consumption, or storage for use in~~  
135 ~~this state of power farm equipment, irrigation equipment,~~  
136 ~~repairs to farm equipment, and replacement parts for farm~~  
137 ~~equipment~~ used exclusively on a farm or in a forest in the  
138 agricultural production of crops or products ~~as produced by~~  
139 ~~those agricultural industries included in the definition of the~~  
140 ~~term agriculture in s. 570.02(1), or such equipment used for~~  
141 ~~fire prevention and suppression work with respect to such crops~~  
142 ~~or products. Harvesting may not be construed to include~~  
143 ~~processing activities. This exemption is not forfeited~~ if a  
144 qualified agricultural producer moves ~~by moving~~ farm equipment  
145 ~~between farms or forests. However, this exemption shall not be~~  
146 ~~allowed unless the purchaser, renter, or lessee signs a~~  
147 ~~certificate stating that the farm equipment is to be used~~  
148 ~~exclusively on a farm or in a forest for agricultural production~~  
149 ~~or for fire prevention and suppression, as required by this~~  
150 ~~subsection. Possession by a seller, lessor, or other dealer of a~~  
151 ~~written certification by the purchaser, renter, or lessee~~  
152 ~~certifying the purchaser's, renter's, or lessee's entitlement to~~  
153 ~~an exemption permitted by this subsection relieves the seller~~  
154 ~~from the responsibility of collecting the tax on the nontaxable~~  
155 ~~amounts, and the department shall look solely to the purchaser~~  
156 ~~for recovery of such tax if it determines that the purchaser was~~

157 ~~not entitled to the exemption.~~

158 (5) EXEMPTIONS; ACCOUNT OF USE.—

159 (a) *Items in agricultural use and certain nets.*—A  
 160 qualified agricultural producer is exempt ~~There are exempt~~ from  
 161 the tax imposed by this chapter on nets designed and used  
 162 exclusively by commercial fisheries; disinfectants, fertilizers,  
 163 insecticides, pesticides, herbicides, fungicides, and weed  
 164 killers used for application on crops or groves, including  
 165 commercial nurseries ~~and home vegetable gardens~~, used in dairy  
 166 barns or on poultry farms for the purpose of protecting poultry  
 167 or livestock, or used directly on poultry or livestock; portable  
 168 containers, or movable receptacles in which portable containers  
 169 are placed, used for processing farm products; field and garden  
 170 seeds, including flower seeds; nursery stock, seedlings,  
 171 cuttings, or other propagative material purchased for growing  
 172 stock; seeds, seedlings, cuttings, and plants used to produce  
 173 food for human consumption; cloth, plastic, and other similar  
 174 materials used on a farm for shade, mulch, or protection from  
 175 frost or insects ~~on a farm~~; generators used on poultry farms;  
 176 ~~and~~ liquefied petroleum gas or other fuel used to heat a  
 177 structure in which started pullets or broilers are raised;  
 178 ~~however, such exemption shall not be allowed unless the~~  
 179 ~~purchaser or lessee signs a certificate stating that the item to~~  
 180 ~~be exempted is for the exclusive use designated herein. Also~~  
 181 ~~exempt are~~ and cellophane wrappers, glue for tin and glass used  
 182 by ~~(apiarists)~~, mailing cases for honey, shipping cases, window

183 cartons, and baling wire and twine used for baling hay, when  
 184 used by a qualified agricultural producer ~~farmer~~ to contain,  
 185 produce, or process an agricultural commodity.

186 (e) *Gas or electricity used for certain agricultural*  
 187 *purposes.*—

188 1. A qualified agricultural producer is exempt from the  
 189 tax imposed by this chapter on butane gas, propane gas, natural  
 190 gas, and all other forms of liquefied petroleum gases ~~are exempt~~  
 191 ~~from the tax imposed by this chapter~~ if such gas is used in any  
 192 tractor, vehicle, or other farm equipment that ~~which~~ is used  
 193 exclusively on a farm or for processing farm products on the  
 194 farm. Such and no part of which gas may not be ~~is~~ used in any  
 195 vehicle or equipment driven or operated on the public highways  
 196 of this state; however, ~~—~~ this restriction does not apply to the  
 197 movement of farm vehicles or farm equipment between farms. The  
 198 transporting of bees by water and the operating of equipment  
 199 used in the apiary of a beekeeper is also deemed an exempt use.

200 2. Electricity used by a qualified agricultural producer  
 201 directly or indirectly for production, packing, or processing of  
 202 agricultural products on the farm~~—~~ or used directly or  
 203 indirectly in a packinghouse~~—~~ is exempt from the tax imposed by  
 204 this chapter. As used in this subsection, the term  
 205 "packinghouse" means any building or structure where fruits,  
 206 vegetables, or meat from cattle or hogs is packed or otherwise  
 207 prepared for market or shipment in fresh form for wholesale  
 208 distribution. The exemption does not apply to electricity used



209 in buildings or structures where agricultural products are sold  
 210 at retail. This exemption applies only if the electricity used  
 211 for the exempt purposes is separately metered. If the  
 212 electricity is not separately metered, it is conclusively  
 213 presumed that some portion of the electricity is used for a  
 214 nonexempt purpose, and all of the electricity used for such  
 215 purposes is taxable.

216 (1) *Growth enhancers or performance enhancers for cattle.*—  
 217 A qualified agricultural producer is ~~There is~~ exempt from the  
 218 tax imposed by this chapter on the sale of performance-enhancing  
 219 or growth-enhancing products for cattle.

220 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
 221 entity by this chapter do not inure to any transaction that is  
 222 otherwise taxable under this chapter when payment is made by a  
 223 representative or employee of the entity by any means,  
 224 including, but not limited to, cash, check, or credit card, even  
 225 when that representative or employee is subsequently reimbursed  
 226 by the entity. In addition, exemptions provided to any entity by  
 227 this subsection do not inure to any transaction that is  
 228 otherwise taxable under this chapter unless the entity has  
 229 obtained a sales tax exemption certificate from the department  
 230 or the entity obtains or provides other documentation as  
 231 required by the department. Eligible purchases or leases made  
 232 with such a certificate must be in strict compliance with this  
 233 subsection and departmental rules, and any person who makes an  
 234 exempt purchase with a certificate that is not in strict

235 compliance with this subsection and the rules is liable for and  
 236 shall pay the tax. The department may adopt rules to administer  
 237 this subsection.

238 (d) Feeds.—For a qualified agricultural producer, feeds  
 239 for poultry, ostriches, and livestock, including racehorses and  
 240 dairy cows, are exempt.

241 (kkk) Home vegetable gardens.—Disinfectants, fertilizers,  
 242 insecticides, pesticides, herbicides, fungicides, and weed  
 243 killers used for application on home vegetable gardens are  
 244 exempt; however, such exemption is not allowed unless the  
 245 purchaser or lessee signs a certificate stating that the item to  
 246 be exempted is for the exclusive use designated herein.

247 Section 5. Section 212.0802, Florida Statutes, is created  
 248 to read:

249 212.0802 Qualified agricultural producer certification.—

250 (1) A qualified agricultural producer is a person or  
 251 entity that meets one of the following criteria:

252 (a) The person or entity is the owner or lessee of  
 253 agricultural land or other real property from which at least  
 254 \$2,500 of agricultural commodities are produced and sold during  
 255 the year.

256 (b) The person or entity is in the business of providing  
 257 for-hire custom agricultural services, including, but not  
 258 limited to, plowing, planting, harvesting, growing, animal  
 259 husbandry or the maintenance of livestock, raising or  
 260 substantially modifying agricultural commodities, or the

261 maintenance of agricultural land from which at least \$2,500 of  
262 such services are provided during the year.

263 (c) The person or entity is the owner of land assessed as  
264 agricultural property under s. 193.461.

265 (d) The person or entity is in the business of producing  
266 long-term agricultural commodities, including, but not limited  
267 to, timber, pulpwood, citrus, and horticultural or other  
268 multiyear agricultural or farm products, from which there might  
269 not be annual income. The applicant must demonstrate that  
270 sufficient volumes of such multiyear agricultural products will  
271 be produced to generate at least \$2,500 in sales annually in the  
272 future.

273 (e) The person or entity is actively engaged in the  
274 production of agricultural commodities and has created, or will  
275 have created, sufficient volumes to generate at least \$2,500 in  
276 annual sales. The applicant must establish such production to  
277 the satisfaction of the Department of Revenue.

278 (2) A qualified agricultural producer that meets the  
279 criteria under subsection (1) may apply to the Department of  
280 Revenue to request an agricultural sales and use tax exemption  
281 certificate. Such certificate must contain an exemption number.  
282 To facilitate the use of the exemption certificate, the  
283 Department of Revenue shall also issue a wallet-sized card  
284 containing the same information provided on the exemption  
285 certificate.

286 (3) The Department of Revenue may adopt rules governing

287 the issuance of agricultural exemption certificates and the  
288 administration of this section. The Department of Revenue may  
289 establish an oversight board, direct staff, and charge annual  
290 fees of at least \$15 but not more than \$25 per year.

291 (4) The Department of Revenue may use any of the following  
292 criteria as a tool to determine eligibility under this section:

293 (a) Business activity on IRS Schedule F (Form 1040),  
294 Profit or Loss From Farming.

295 (b) Farm rental activity on IRS Form 4835, Farm Rental  
296 Income and Expenses, or Schedule E (Form 1040), Supplemental  
297 Income and Loss.

298 (c) Proof of ownership of land assessed as agricultural  
299 property under s. 193.461.

300 (5) Possession by a seller, lessor, or other dealer of a  
301 written certification by the purchaser, renter, or lessee  
302 certifying the purchaser's, renter's, or lessee's entitlement to  
303 an exemption permitted by this section relieves the seller from  
304 the responsibility of collecting the tax on the nontaxable  
305 amounts, and the department shall look solely to the purchaser  
306 for recovery of such tax if it determines that the purchaser was  
307 not entitled to the exemption.

308 Section 6. This act shall take effect July 1, 2014.