

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 933 Trespassing
SPONSOR(S): Alvarez
TIED BILLS: IDEN./SIM. BILLS: SB 648

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee	17 Y, 0 N	Gawin	Moore
2) Criminal Justice Subcommittee	17 Y, 0 N	Hall	Hall
3) Infrastructure Strategies Committee	18 Y, 0 N	Gawin	Harrington

SUMMARY ANALYSIS

Under Florida's greenbelt law, only lands that are used primarily for bona fide agricultural purposes may be classified agricultural. The law defines "bona fide agricultural purposes" to mean good faith commercial agricultural use of the land. Various factors are considered when determining if land is being used for a bona fide agricultural use, including the length of time the land has been so used; whether the use has been continuous; the purchase price paid; size, as it relates to specific agricultural use, but a minimum acreage is not required; whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices; and whether the land is leased and, if so, the effective length, terms, and conditions of the lease.

Posted lands are lands which have signs posted not more than 500 feet apart along, and at each corner of, the boundaries of the land. Such signs must have "no trespassing" in letters not less than 2 inches with the name of the owner, lessee, or occupant of the land on the sign. No trespassing signs must be posted so they are in a position that is clearly noticeable from the outside boundary line or there may be a conspicuous no trespassing notice painted on the trees or posts on the property with certain specifications. Such notices are not necessary on any enclosed lands or lands not exceeding five acres in area on which there is a dwelling house.

Any person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance as to which notice against entering or remaining is given, in the form of "no trespassing signs" or other such postings, commits the offense of trespass on property other than a structure or conveyance. The unauthorized entry by any person into or upon any enclosed and posted land is prima facie evidence of the intent to commit trespass.

The bill revises the definition of "posted land" to specify that lands classified as agricultural need only have signs placed at each point of ingress and at each corner of the land boundaries to be considered posted lands, rather than every 500 feet.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Agricultural Lands

Under Florida's greenbelt law,¹ only lands that are used primarily for bona fide agricultural purposes may be classified agricultural. The law defines "bona fide agricultural purposes" to mean good faith commercial agricultural use of the land.² Various factors are considered when determining if land is being used for a bona fide agricultural use, including the length of time the land has been so used; whether the use has been continuous; the purchase price paid; size, as it relates to specific agricultural use, but a minimum acreage is not required; whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices; and whether the land is leased and, if so, the effective length, terms, and conditions of the lease.³ Nonresidential buildings, structures, or facilities constructed on a farm for agritourism activities constitute a bona fide agricultural use of the land so long as the buildings, structures, or facilities are an integral part of the agricultural operation.⁴

Trespass

Any person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property, other than a structure or conveyance, as to which notice against entering or remaining is given in the form of "no trespassing signs" or other such postings commits the offense of trespass on property other than a structure or conveyance.⁵ The unauthorized entry by any person into or upon any enclosed and "posted land" is prima facie evidence of the intent to commit trespass.⁶ The offense is a first-degree misdemeanor,⁷ punishable by up to one year in county jail⁸ or a fine up to \$1,000.⁹

Posted lands are lands that have signs posted not more than 500 feet apart along, and at each corner of, the boundaries of the land.¹⁰ Such signs must have "no trespassing" in letters not less than 2 inches with the name of the owner, lessee, or occupant of the land on the sign.¹¹ No trespassing signs must be posted so they are in a position that is clearly noticeable from the outside boundary line¹² or there may be a conspicuous no trespassing notice painted on the trees or posts on the property with certain specifications.¹³ Such notices are not necessary on any enclosed lands or lands not exceeding five acres in an area on which there is a dwelling house.¹⁴

Any person who willfully removes, destroys, mutilates, or commits any act designed to remove, mutilate, or reduce the legibility or effectiveness of any posted notice placed by the owner, tenant,

¹ Section 193.461, F.S.

² Section 193.461(3)(b), F.S.

³ *Id.*

⁴ Section 570.87(1), F.S.

⁵ Section 810.09(1)(a)1., F.S.

⁶ Section 810.12(1), F.S.

⁷ Section 810.09(2)(a), F.S.

⁸ Section 775.082(4)(a), F.S.

⁹ Section 775.083(1)(d), F.S.

¹⁰ Section 810.011(5)(a)1., F.S.

¹¹ *Id.*

¹² *Id.*

¹³ Section 810.011(5)(a)2.a., F.S. Notices painted on trees or posts must be painted in an international orange color and display the stenciled words "No Trespassing" in letters no less than two inches high and one inch wide, placed so the bottom of the painted notice is not less than three feet from the ground or more than five feet from the ground and placed at locations that are readily visible to any person approaching the property and no more than 500 feet apart on agricultural land. A person using such signs must still post "no trespassing" signs at all places where entry to the property is normally expected.

¹⁴ Section 810.011(5)(b), F.S.

lessee, or occupant of legally posted land commits a first-degree misdemeanor,¹⁵ punishable by up to one year in county jail¹⁶ or a fine up to \$1,000.¹⁷

Effect of the Bill

The bill revises the definition of “posted land” to specify that lands classified as agricultural need only have signs placed at each point of ingress and at each corner of the land boundaries to be considered posted lands, rather than every 500 feet.

B. SECTION DIRECTORY:

Section 1. Amends s. 810.011, F.S., to revise the definition of “posted land.”

Section 2. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

¹⁵ Section 810.10(1)-(2), F.S.

¹⁶ Section 775.082(4)(a), F.S.

¹⁷ Section 775.083(1)(d), F.S.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.