

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1758
 SPONSOR: Senator Laurent and Others
 SUBJECT: Rural Land Conservation Easements
 DATE: March 28, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gee	Voigt	NR	Favorable/CS
2.	_____	_____	AG	_____
3.	_____	_____	FT	_____
4.	_____	_____	AGG	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the “Rural and Family Lands Protection Act” for the purpose of limiting subdivision and conversion of farmland. The bill authorizes the sale of up to \$100 million in bonds annually over a 10-year period, with the proceeds used for acquiring rural conservation easements and funding agreements to preserve the rural quality of the state. The program will be implemented by the Department of Agriculture and Consumer Services (DACCS).

This bill creates s. 570.70, F.S., s. 570.71, F.S., and 215.619.F.S. amends s. 201.15; and s. 570.27, F.S., and creates two undesignated sections of the Florida Statutes.

II. Present Situation:

Florida’s population growth is among the nation’s fastest. Climate, recreational opportunities, and low taxes are but a few of the factors fueling this growth. There is little likelihood that this growth will slow in the foreseeable future.

Although Florida is large in area, much of its terrain was originally unsuited for agriculture and urbanization. Much of the land currently in use was originally wetlands, requiring drainage. Current environmental practices will not allow substantial drainage in the future. For all practicable purposes, in the central and southern parts of the state the land necessary to house a growing population is in agricultural uses. There is a growing concern that the rapid pace of farmland conversion to other uses, such as suburbs and other urban uses, will result in such a reduction in green space as to change the landscape. Rural land in its natural or near-natural state provides many irreplaceable benefits: aquifer recharge, wild species habitat, recreation, aesthetic benefits, and others.

The DACS reports that a recent University of Florida study indicates that at least 130,000 acres of farmland are being converted annually to other uses.

In addition to the need for space for growth, many long-term farming operations must be sold to pay estate taxes on the owner's death. Often, the purchaser has development in mind.

Recently, the idea of paying rural landowners to preserve, or limit the uses of their lands has been considered:

While conservation easements in perpetuity have been in use for some time, there may be other ways of preserving green space that could be more attractive to rural property holders. It has been suggested by agricultural and environmental interests that bonds could be sold, with the proceeds used to fund a program designed to reduce the rate of farmland conversion.

Pursuant to s. 259.105(b), F.S., funds from the Florida Forever program may be used to acquire "land protection agreements or similar tools..."

III. Effect of Proposed Changes:

Section 1. The act may be cited as the "Rural and Family Lands Protection Act."

Section 2. For purposes of this act, the term "Department" means the Department of Agriculture and Consumer Services (DACCS).

Section 3. Section 570.70, F.S., is created. Findings and intent are provided that:

- A thriving rural economy with a strong agricultural base, healthy natural environment, and viable rural communities is an essential part of Florida. Rural areas also include the largest remaining intact ecosystems and best examples of remaining wildlife habitats as well as a majority of privately owned land targeted by local, state, and federal agencies for natural resource protection.
- The growth of Florida's population can result in agricultural and rural lands being converted into residential or commercial development.
- The agricultural, rural, natural resource and commodity values of rural lands are vital to the state's economy, productivity, rural heritage and quality of life.
- The purpose of this act is to bring under public protection lands which serve to limit subdivision and conversion of agricultural and natural areas that provide economic, open space, water and wildlife benefits by acquiring land or related interests in land such as perpetual, less than fee acquisitions, agricultural protection agreements, and resource conservation agreements.

Section 4. Section 570.71, F.S., is created to authorize the DACCS to acquire interests and enter into agreements for the following public purposes:

- Promotion and improvement of wildlife habitat,
- Protection and enhancement of waterbodies, aquifer recharge areas, wetlands and watersheds,
- Perpetuation of open space on lands with significant natural areas, or
- Protection of agricultural lands threatened by conversion into other uses.

To achieve the purposes of this act, beginning no later than July 1, 2002, and every year thereafter, the DACS must accept applications for project proposals.

Four types of interests and agreements may be negotiated by the DACS:

Conservation easements pursuant to s. 704.06, F.S.

Rural lands protection easements, which are a perpetual right or interest in agricultural land which is appropriate to retain such land in predominantly its current state and to prevent the subdivision and conversion of such lands into other uses. This right or interest in property may prohibit only the following:

- Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11), F.S.
- Subdivision of the property;
- Dumping or placing of trash, waste, or offensive materials; and
- Activities that affect the natural hydrology of the land, or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, except those required for environmental restoration, federal, state or local government regulatory programs or best management practices.

Resource conservation agreements, which are a contract for services that provide annual payments to landowners for services that actively improve habitat and water restoration or conservation on their lands over and above that which is already required by law, or provides recreational opportunities. They will be for a term of not less than 5 years and not more than 10 years. Property owners will become eligible to enter into a resource conservation agreement only upon entering into a conservation easement or rural lands protection easement.

Agricultural protection agreements, which are for a term of not greater than 30 years and will provide payments to landowners with significant natural areas on their land. Public access and public recreational opportunities may be negotiated at the request of the landowner. For the length of the agreement, the landowner must agree to prohibit:

- Construction or placing of buildings, roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the easement, and except for linear facilities described in s. 704.06(11), F.S.
- Subdivision of the property;
- Dumping or placing of trash, waste, or offensive materials; and
- Activities that affect the natural hydrology of the land, or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat.

The bill requires that, concurrent with entering into an agricultural protection agreement, the landowner must grant to the state an enforceable option to purchase the property in fee simple at the end of the agreement based on the value of the property at the time the agreement is entered into plus a reasonable escalator. The escalator may not exceed 2 percent of the value of the

property at the time the agreement is entered into multiplied by the number of full calendar years from the date of the commencement of the agreement. At the end of an agreement, the parties may agree to extend the agreement for up to five years, but only if the option to purchase remains in effect until the end of the term extension. Upon mutual consent and agreement of the parties, a landowner may enter into a perpetual easement at any time during the term of a agricultural protection agreement.

Payments to landowners will be as follows:

- Payment for conservation easements and rural land protection easements will be a lump sum payment at the time the easement is entered into, payable from proceeds derived from revenues distributed pursuant to ss. 201.15 and 215.619, F.S.
- Landowners entering into an agricultural protection agreement may receive up to 50 percent of the purchase price at the time the agreement is entered into and remaining payments on the balance will be equal annual payments over the term of the agreement, payable from proceeds derived from revenues distributed pursuant to ss. 201.15 and 215.619, F.S., subject to the provisions of 2. 11(e), Art. VII of the State Constitution.
- Payments for the resource conservation agreements shall be equal annual payments over the term of the agreement, payable from proceeds derived from revenues distributed pursuant to s. 201.15, F.S.

The bill prohibits easements under this act from preventing the transfer of the remaining fee value with the easement, and requires rulemaking by the DACS, in consultation with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the water management districts. The rules must establish an application process, prioritize projects toward ranch and timber lands to best achieve the purposes of the act, establish an appraisal process for easements, and establish a method to determine payments under an agricultural protection agreement or a resource conservation agreement.

The DACS is also directed to seek funds from federal sources to use in combination with state funds to carry out the purposes of s. 570.71, F.S.

Section 5. Effective July 1, 2001, s. 201.15(1)(c), F.S., is amended to authorize documentary stamp tax proceeds to be deposited in to the Conservation and Recreation Lands Program Trust Fund of the DACS.

Section 6. Section 215.619, F.S., is created to authorize the issuance of not more than \$100 million in bonds, beginning July 1, 2002, to finance or refinance the Rural and Family Lands Protection Act. This section contains provisions similar to those developed by the Division of Bond Finance for the Florida Forever program, including provisions prohibiting any action that would adversely affect the rights of bond holders or cause all or any portion of the interest of the bonds to lose the exclusion from gross income for federal income tax purposes.

Section 7. Section 570.27(1), F.S., is amended to authorize deposits of documentary stamp tax and bonded revenues into the Conservation and Recreation Lands Program Trust Fund to be used to acquire conservation easements and rural lands protection easements, and fund agricultural protection and resource conservation agreements.

Section 8. The act will take effect July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There is no determinable impact at this time. If implemented, rural landowners who participate could receive payments for maintaining their lands in a natural or near-natural condition.

C. Government Sector Impact:

Up to \$100 million that would otherwise be available in the General Revenue Fund would be used for debt service on bonds.

There would likely be some costs associated with the development of rules by participating agencies. Although the DACS anticipates a need for additional staff and funding to administer the program, it has not yet developed this information.

Funds from the Florida Forever program could be used for conservation easements, if desired.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Green Swamp Land Authority created pursuant to s. 380.0677, F.S., provides a program for the creation of land protection agreements. The agreements limit the uses of the lands in exchange for a payment. Generally, agricultural uses are maintained, and the agreement is not necessarily in perpetuity. The Green Swamp program includes the right of a water management

to conduct monitoring activities to ensure compliance with the agreement. This bill does not address the ability of the payor to ensure that the negotiated land use is maintained.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
