

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 | 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

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)

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

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.—

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

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

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.



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~~

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 ~~those~~ 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

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.