

By Senator Fasano

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1 A bill to be entitled
2 An act relating to unauthorized employment; amending
3 s. 193.461, F.S.; requiring denial of agricultural
4 classification and assessment of land for specified
5 time periods under circumstances involving knowingly
6 hiring, recruiting, or referring unauthorized aliens
7 for employment; requiring alternative assessment for a
8 specified time; amending s. 448.09, F.S.; providing an
9 additional civil penalty for employment of
10 unauthorized aliens; amending s. 570.07, F.S.;
11 requiring the Department of Agriculture and Consumer
12 Services to disseminate information concerning
13 compliance with federal work authorization programs;
14 providing a definition; creating s. 559.7915, F.S.;
15 requiring information demonstrating compliance with
16 the federal work authorization program as a condition
17 of licensure, certification, or registration in
18 specified professions and occupations; providing a
19 definition; prohibiting a licenseholder,
20 certificateholder, or applicant for licensure or
21 certification from knowingly hiring, recruiting, or
22 referring an unauthorized alien for employment;
23 establishing grounds for disciplinary action by the
24 Department of Business and Professional Regulation;
25 providing penalties; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 193.461, Florida Statutes, is amended to

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30 read:

31 193.461 Agricultural lands; classification and assessment;
32 mandated eradication or quarantine program; unauthorized
33 employment prohibited; penalties.-

34 (1) The property appraiser shall, on an annual basis,
35 classify for assessment purposes all lands within the county as
36 either agricultural or nonagricultural.

37 (2) Any landowner whose land is denied agricultural
38 classification by the property appraiser may appeal to the value
39 adjustment board. The property appraiser shall notify the
40 landowner in writing of the denial of agricultural
41 classification on or before July 1 of the year for which the
42 application was filed. The notification shall advise the
43 landowner of his or her right to appeal to the value adjustment
44 board and of the filing deadline. The board may also review all
45 lands classified by the property appraiser upon its own motion.
46 The property appraiser shall have available at his or her office
47 a list by ownership of all applications received showing the
48 acreage, the full valuation under s. 193.011, the valuation of
49 the land under the provisions of this section, and whether or
50 not the classification requested was granted.

51 (3) (a) No lands shall be classified as agricultural lands
52 unless a return is filed on or before March 1 of each year. The
53 property appraiser, before so classifying such lands, may
54 require the taxpayer or the taxpayer's representative to furnish
55 the property appraiser such information as may reasonably be
56 required to establish that such lands were actually used for a
57 bona fide agricultural purpose. Failure to make timely
58 application by March 1 shall constitute a waiver for 1 year of

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59 the privilege herein granted for agricultural assessment.
60 However, an applicant who is qualified to receive an
61 agricultural classification who fails to file an application by
62 March 1 may file an application for the classification and may
63 file, pursuant to s. 194.011(3), a petition with the value
64 adjustment board requesting that the classification be granted.
65 The petition may be filed at any time during the taxable year on
66 or before the 25th day following the mailing of the notice by
67 the property appraiser as provided in s. 194.011(1).
68 Notwithstanding the provisions of s. 194.013, the applicant must
69 pay a nonrefundable fee of \$15 upon filing the petition. Upon
70 reviewing the petition, if the person is qualified to receive
71 the classification and demonstrates particular extenuating
72 circumstances judged by the property appraiser or the value
73 adjustment board to warrant granting the classification, the
74 property appraiser or the value adjustment board may grant the
75 classification. The owner of land that was classified
76 agricultural in the previous year and whose ownership or use has
77 not changed may reapply on a short form as provided by the
78 department. The lessee of property may make original application
79 or reapply using the short form if the lease, or an affidavit
80 executed by the owner, provides that the lessee is empowered to
81 make application for the agricultural classification on behalf
82 of the owner and a copy of the lease or affidavit accompanies
83 the application. A county may, at the request of the property
84 appraiser and by a majority vote of its governing body, waive
85 the requirement that an annual application or statement be made
86 for classification of property within the county after an
87 initial application is made and the classification granted by

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88 the property appraiser. Such waiver may be revoked by a majority
89 vote of the governing body of the county.

90 (b) Subject to the restrictions set out in this section,
91 only lands which are used primarily for bona fide agricultural
92 purposes shall be classified agricultural. "Bona fide
93 agricultural purposes" means good faith commercial agricultural
94 use of the land. In determining whether the use of the land for
95 agricultural purposes is bona fide, the following factors may be
96 taken into consideration:

97 1. The length of time the land has been so used.

98 2. Whether the use has been continuous.

99 3. The purchase price paid.

100 4. Size, as it relates to specific agricultural use, but in
101 no event shall a minimum acreage be required for agricultural
102 assessment.

103 5. Whether an indicated effort has been made to care
104 sufficiently and adequately for the land in accordance with
105 accepted commercial agricultural practices, including, without
106 limitation, fertilizing, liming, tilling, mowing, reforesting,
107 and other accepted agricultural practices.

108 6. Whether such land is under lease and, if so, the
109 effective length, terms, and conditions of the lease.

110 7. Such other factors as may from time to time become
111 applicable.

112 (c) The maintenance of a dwelling on part of the lands used
113 for agricultural purposes shall not in itself preclude an
114 agricultural classification.

115 (d) When property receiving an agricultural classification
116 contains a residence under the same ownership, the portion of

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117 the property consisting of the residence and curtilage must be
118 assessed separately, pursuant to s. 193.011, to qualify for the
119 assessment limitation set forth in s. 193.155. The remaining
120 property may be classified under the provisions of paragraphs
121 (a) and (b).

122 (e) Notwithstanding the provisions of paragraph (a), land
123 that has received an agricultural classification from the value
124 adjustment board or a court of competent jurisdiction pursuant
125 to this section is entitled to receive such classification in
126 any subsequent year until such agricultural use of the land is
127 abandoned or discontinued, the land is diverted to a
128 nonagricultural use, or the land is reclassified as
129 nonagricultural pursuant to subsection (4). The property
130 appraiser must, no later than January 31 of each year, provide
131 notice to the owner of land that was classified agricultural in
132 the previous year informing the owner of the requirements of
133 this paragraph and requiring the owner to certify that neither
134 the ownership nor the use of the land has changed. The
135 department shall, by administrative rule, prescribe the form of
136 the notice to be used by the property appraiser under this
137 paragraph. If a county has waived the requirement that an annual
138 application or statement be made for classification of property
139 pursuant to paragraph (a), the county may, by a majority vote of
140 its governing body, waive the notice and certification
141 requirements of this paragraph and shall provide the property
142 owner with the same notification provided to owners of land
143 granted an agricultural classification by the property
144 appraiser. Such waiver may be revoked by a majority vote of the
145 county's governing body. This paragraph does not apply to any

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146 property if the agricultural classification of that property is
147 the subject of current litigation.

148 (4) (a) The property appraiser shall reclassify the
149 following lands as nonagricultural:

150 1. Land diverted from an agricultural to a nonagricultural
151 use.

152 2. Land no longer being utilized for agricultural purposes.

153 3. Land that has been zoned to a nonagricultural use at the
154 request of the owner subsequent to the enactment of this law.

155 (b) The board of county commissioners may also reclassify
156 lands classified as agricultural to nonagricultural when there
157 is contiguous urban or metropolitan development and the board of
158 county commissioners finds that the continued use of such lands
159 for agricultural purposes will act as a deterrent to the timely
160 and orderly expansion of the community.

161 (c) Sale of land for a purchase price which is three or
162 more times the agricultural assessment placed on the land shall
163 create a presumption that such land is not used primarily for
164 bona fide agricultural purposes. Upon a showing of special
165 circumstances by the landowner demonstrating that the land is to
166 be continued in bona fide agriculture, this presumption may be
167 rebutted.

168 (5) For the purpose of this section, "agricultural
169 purposes" includes, but is not limited to, horticulture;
170 floriculture; viticulture; forestry; dairy; livestock; poultry;
171 bee; pisciculture, when the land is used principally for the
172 production of tropical fish; aquaculture; sod farming; and all
173 forms of farm products and farm production.

174 (6) (a) In years in which proper application for

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175 agricultural assessment has been made and granted pursuant to
176 this section, the assessment of land shall be based solely on
177 its agricultural use. The property appraiser shall consider the
178 following use factors only:

- 179 1. The quantity and size of the property;
- 180 2. The condition of the property;
- 181 3. The present market value of the property as agricultural
182 land;
- 183 4. The income produced by the property;
- 184 5. The productivity of land in its present use;
- 185 6. The economic merchantability of the agricultural
186 product; and
- 187 7. Such other agricultural factors as may from time to time
188 become applicable, which are reflective of the standard present
189 practices of agricultural use and production.

190 (b) Notwithstanding any provision relating to annual
191 assessment found in s. 192.042, the property appraiser shall
192 rely on 5-year moving average data when utilizing the income
193 methodology approach in an assessment of property used for
194 agricultural purposes.

195 (c)1. For purposes of the income methodology approach to
196 assessment of property used for agricultural purposes,
197 irrigation systems, including pumps and motors, physically
198 attached to the land shall be considered a part of the average
199 yields per acre and shall have no separately assessable
200 contributory value.

201 2. Litter containment structures located on producing
202 poultry farms and animal waste nutrient containment structures
203 located on producing dairy farms shall be assessed by the

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204 methodology described in subparagraph 1.

205 (d) In years in which proper application for agricultural
206 assessment has not been made, the land shall be assessed under
207 the provisions of s. 193.011.

208 (7) Lands classified for assessment purposes as
209 agricultural lands which are taken out of production by any
210 state or federal eradication or quarantine program shall
211 continue to be classified as agricultural lands for the duration
212 of such program or successor programs. Lands under these
213 programs which are converted to fallow, or otherwise nonincome-
214 producing uses shall continue to be classified as agricultural
215 lands and shall be assessed at a de minimis value of no more
216 than \$50 per acre, on a single year assessment methodology;
217 however, lands converted to other income-producing agricultural
218 uses permissible under such programs shall be assessed pursuant
219 to this section. Land under a mandated eradication or quarantine
220 program which is diverted from an agricultural to a
221 nonagricultural use shall be assessed under s. 193.011.

222 (8) (a) Lands may not be classified as agricultural lands
223 for the length of time specified in paragraph (b) if the
224 landowner has been determined to have violated any federal
225 immigration law by knowingly hiring, recruiting, or referring
226 for herself or himself or on behalf of another, for private or
227 public employment within the state, whether through direct
228 employment or through a contractor or subcontractor, a person
229 who is not authorized to work as determined by the federal
230 immigration laws or the Attorney General of the United States.

231 (b) If the appraiser determines that the landowner applying
232 under this section meets the conditions specified in paragraph

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233 (a), the appraiser shall deny the application for classification
234 assessment as agricultural property by the landowner for the
235 lengths of time for conditions as follows:

236 1. A minimum period of 2 years for a violation involving
237 the employment of five or fewer persons who are not authorized
238 to work by the federal immigration laws or the Attorney General
239 of the United States.

240 2. A period of 5 years for a violation involving the
241 employment of 6 to 10 persons who are not authorized to work by
242 the federal immigration laws or the Attorney General of the
243 United States.

244 3. A period of 10 years for a violation involving the
245 unauthorized employment of more than 10 persons who are not
246 authorized to work by the federal immigration laws or the
247 Attorney General of the United States.

248 (c) For the years that the land is not assessed as
249 agricultural pursuant to this section, it shall be assessed
250 under s. 193.011.

251 Section 2. Subsection (4) is added to section 448.09,
252 Florida Statutes, to read:

253 448.09 Unauthorized aliens; employment prohibited.—

254 (4) In addition to any penalty specified in s. 193.461(8),
255 a landowner is also subject to a civil fine of \$25,000 for the
256 employment of each person who is not authorized to work by the
257 federal immigration laws or the Attorney General of the United
258 States.

259 Section 3. Subsection (42) is added to section 570.07,
260 Florida Statutes, to read:

261 570.07 Department of Agriculture and Consumer Services;

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262 functions, powers, and duties.—The department shall have and
263 exercise the following functions, powers, and duties:

264 (42) To provide information for dissemination to all
265 persons who are served by or regulated by the department in its
266 various agricultural capacities in order to foster and encourage
267 compliance with federal work authorization programs. This
268 information shall include the need for compliance both as it
269 relates to those directly employed by those persons and as it
270 relates to those employed by contractors and subcontractors. For
271 purposes of this subsection, the term “federal work
272 authorization program” means any program operated by the United
273 States Department of Homeland Security which provides electronic
274 verification of work authorization issued by the United States
275 Bureau of Citizenship and Immigration Services or any equivalent
276 federal work authorization program operated by the United States
277 Department of Homeland Security which provides for the
278 verification of information regarding newly hired employees
279 under the Immigration Reform and Control Act of 1986, Pub. L.
280 No. 99-603.

281 Section 4. Section 559.7915, Florida Statutes, is created
282 to read:

283 559.7915 Compliance with federal work authorization
284 program; information required for licensure, certification, or
285 registration; unauthorized employment prohibited; penalties.—

286 (1) (a) As a condition of licensure, certification, or
287 registration or renewal of a license, certification, or
288 registration under part III of chapter 450, part I of chapter
289 489, part I of chapter 509, chapter 563, chapter 564, or chapter
290 565, if that person is also applying for or possesses a license

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291 under part I of chapter 509, a person applying for a license,
292 certification, or registration shall ensure compliance with the
293 federal work authorization program regarding all employees and
294 shall ensure that any contractors and subcontractors providing
295 services to the applicant register and participate in the
296 federal work authorization program. Proof of compliance shall be
297 by certification by the applicant for all employees and by
298 certification to the applicant by any contractor or
299 subcontractor that the contractor or subcontractor is in
300 compliance.

301 (b) For purpose of this subsection, the term "federal work
302 authorization program" means any program operated by the United
303 States Department of Homeland Security which provides electronic
304 verification of work authorization issued by the United States
305 Bureau of Citizenship and Immigration Services or any equivalent
306 federal work authorization program operated by the United States
307 Department of Homeland Security which provides for the
308 verification of information regarding newly hired employees
309 under the Immigration Reform and Control Act of 1986, Pub. L.
310 No. 99-603.

311 (2) A person applying for a license, certification, or
312 registration or for renewal of a license, certification, or
313 registration, or a person possessing a license, certification,
314 or registration under the provisions of law cited in subsection
315 (1), who has been determined to have violated any provision of
316 the federal immigration law by knowingly hiring, recruiting, or
317 referring for herself or himself or on behalf of another, for
318 private or public employment within the state, a person who is
319 not authorized to work by the federal immigration laws or by the

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320 United States Attorney General constitutes grounds for which the
321 disciplinary actions specified in subsection (3) may be taken.

322 (3) When the board, or the department when there is no
323 board, determines that a person applying for or possessing a
324 license, certification, or registration has been determined to
325 meet the conditions specified in subsection (2), it shall enter
326 an order imposing one of the penalties in paragraphs (a)-(d) and
327 imposing the fine in paragraph (e) for penalties imposed under
328 paragraphs (b), (c), or (d):

329 (a) Denial of application for initial or renewal of a
330 license, certification, or registration.

331 (b) Suspension of a license, certification, or registration
332 for a minimum of 2 years for a violation involving the
333 employment of five or fewer persons who are not authorized to
334 work by the federal immigration laws or by the Attorney General
335 of the United States.

336 (c) Suspension of a license, certification, or registration
337 for 5 years for a violation involving the employment of 6 to 10
338 persons who are not authorized to work by the federal
339 immigration laws or by the Attorney General of the United
340 States.

341 (d) Revocation of a license, certification, or registration
342 for a violation involving the unauthorized employment of more
343 than 10 persons who are not authorized to work by the federal
344 immigration laws or by the Attorney General of the United
345 States.

346 (e) Imposition of an administrative fine of \$25,000 for
347 each person who is not authorized to work by the federal
348 immigration laws or by the Attorney General of the United

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349 States.

350 Section 5. This act shall take effect January 1, 2011.