

Handbook of Florida Agricultural Laws: Taxation and Property Rights Related to Agricultural Lands¹

Michael T. Olexa, Ian Alperstein, and Joseph Fischer²

Preface

This handbook is designed to provide an accurate, current, and authoritative summary of the principal Florida laws that directly or indirectly relate to agriculture. It provides a basic overview of the many rights and responsibilities that farmers and farm land owners have under Florida laws. Many readers may value this handbook because it informs them about these rights and responsibilities, and it provides them with good contacts for more detailed information. However, the reader should be aware that because the laws, administrative rulings, and court decisions on which this handbook is based are subject to constant revision, portions of this handbook could become outdated at any time. Many details of cited laws are also left out due to space limitations.

This handbook is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice. It is not all-inclusive in providing information to achieve compliance with laws and regulations governing the practice of agriculture. For these reasons, the use of these materials by any person constitutes an agreement to hold harmless the authors, UF/IFAS, the Agricultural Law Center, and the University of Florida for any liability claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this handbook.

-
1. This is EDIS document FE119, a publication of the Department of Food and Resource Economics, Florida Cooperative Extension Service, IFAS, University of Florida, Gainesville, FL. FE119 is part of Circular 1224, Handbook of Florida Agricultural Laws. First published November 1999, and revised April 2004 and December 2007. Please visit the EDIS website at <http://edis.ifas.ufl.edu>.
 2. Michael T. Olexa, Professor, Department of Food and Resource Economics, and Director, UF/IFAS Agricultural Law Center, Member, The Florida Bar, Florida Cooperative Extension Service, UF/IFAS, University of Florida, Gainesville, FL; Ian Alperstein, third-year law student, Levin College of Law, University of Florida, Gainesville, FL; and Joseph Fischer, graduate, Levin College of Law, University of Florida, and members, The Florida Bar.
- This publication is designed to provide accurate, current and authoritative information on the subject. However, since the laws, administrative rulings, and court decisions on which it is based are subject to constant revision, portions of this publication could become outdated at any time. This publication is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice, and the information contained herein should not be regarded, or relied upon, as a substitute for professional advice. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, UF/IFAS, and the University of Florida for any liability, claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this document.
- Acknowledgment: The authors are indebted to the personnel of both state and federal agencies who gave of their time and advice in the preparation of this handbook. The authors are also indebted to Mr. Richard Budell of the Office of Agricultural Water Policy of the Florida Department of Agriculture and Consumer Services for providing support.

The Institute of Food and Agricultural Sciences (IFAS) is an Equal Opportunity Institution authorized to provide research, educational information and other services only to individuals and institutions that function with non-discrimination with respect to race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations. U.S. Department of Agriculture, Cooperative Extension Service, University of Florida, IFAS, Florida A. & M. University Cooperative Extension Program, and Boards of County Commissioners Cooperating. Larry Arrington, Dean

A Brief Note on Florida Laws and Rule Making

The Florida laws described in this handbook were passed by the state legislature and have become valid state laws. The appropriate state agency then wrote specific rules based on each law. These rules are what the state agencies use to enforce the law. For most laws in this handbook, that agency is the Department of Agriculture and Consumer Services (DACS). Florida legislated laws, also called *statutes*, are organized into chapters. A chapter is divided even further into specific statutes. For example, Chapter 601 (Florida Citrus Code) contains dozens of sections covering topics ranging from marketing, inspection standards, and processing to prohibitions on the use of certain chemicals for citrus fruit. Other chapters may deal with a narrower subject and have far fewer sections. As noted above, the specific rules for each of these sections are written by a designated state agency, and generally go into greater detail. You can view the Florida Statutes online at <http://www.flsenate.gov/statutes>.

Introduction

This handbook can be used to learn which Florida laws apply to a particular agricultural project or subject, and to find the name, address, and telephone number of a state office that can provide more specific information or services. Created for readers with no prior experience in the law, the handbook is designed as a necessary first step in recognizing which agricultural activities merit special attention because of their implications to agriculture. The handbook also provides an introduction to the crucial agencies and statutes which govern agricultural law.

The online handbook is divided into a Table of Contents, Index, and six fact sheets. The Table of Contents gives general and specific areas of Florida laws related to agriculture and the number of the fact sheet where that topic can be found. The six fact sheets are as follows: FE114, General Agriculture-Related Laws; FE115, Animal Husbandry; FE116, Crops and Products; FE117, Related Non-Crop or Product Agricultural Topics; FE118, Environmental and Conservation Regulations;

and FE119, Taxation and Property Rights Related to Agricultural Land. The user can find the specific laws by using either the Table of Contents (FE113) or the Index (FE122).

Below is an example of using the handbook if your area of interest is farming exotic animals such as ostriches.

To use the Table of Contents:

1. Find "Animal Husbandry" in the Table of Contents (FE113).
2. Within the Animal Husbandry area locate "Livestock—Exotic Animals". Follow the link to FE115: Animal Husbandry.
3. In FE115, read the "General Descriptions" and "Related References, Details, and Exceptions" columns for both laws under "Livestock—Exotic Animals". Determine if the information answers the questions or if more information is needed.
4. If the user wants more information regarding the general farming or inspection and slaughter of an exotic animal (e.g., ostriches), locate the appropriate state office telephone number and address. The primary contact agency information is listed at the end of the fact sheet, along with abbreviation information.

To use the Index:

Look up "ostriches" in the Index (FE122). The index leads the reader to the location for information about the culture and inspection/slaughter of ostriches. Follow steps 3 and 4 above to find the contact information.

Division of the Tables

The table in each fact sheet has five columns of information. The first column, "Statute / Law (description)," either provides the law's name or a general description when no name is available. The second column, "Florida Statute Number", lists either a chapter number when an entire chapter relates to a particular topic, a range of sections, or a single

specific section. At times, a single chapter number may have many more laws than a range. For example, sections 593.101 to 593.117 cover a narrower field, the control of cotton boll weevil, than the larger Chapter 601 on citrus fruit. The chapter and section number in all columns are presented without the typical abbreviations or symbols.

Columns 3 and 4 provide brief descriptions and related references, details, and exceptions. This information is highly condensed. As such, not all information is provided. The authors have attempted to include the most relevant aspects of each listed law. Additional information can be obtained by contacting the offices noted in the final column, "Primary Contact Agencies." As noted above, the primary contact information is listed at the end of the fact sheet. The reader will find that the state and federal agencies are unquestionably the best targets for specific questions, as they are in close touch with both the formal and practical considerations of the areas that they regulate.

This publication can be improved with your ideas and suggestions. Comments regarding any areas which may have been omitted, but deserve inclusion, are particularly valuable. Reader feedback is a necessary ingredient to complete any successful future editions. Please send your comments or suggestions to:

Michael T. Olexa

Director, Agricultural Law Center

Food and Resource Economics Department

Post Office Box 110240

University of Florida

Gainesville, FL 32611-0240

Fax (352) 392-9898

| VI. Florida Agricultural Laws: Taxation and Property Rights Related to Agricultural Land | | | | |
|--|-------------------------------|---|---|---------------------------------|
| Statute / Law (description) | Florida Statute Number | General Description | Related References, Details, and Exceptions | Primary Contact Agencies |
| Law regarding classification and assessment of agricultural lands | 193.461 | Specifies factors/procedures for classifying "agricultural" land for assessing tax rate. To receive favorable rate, land must be used for "bona fide agricultural purposes" as defined in 193.461(3)(b) 1-7. Agricultural purposes includes, but is not limited to, forestry, horticulture, floriculture, viticulture, bees, livestock, dairy, poultry, pisciculture (principally for tropical fish production), aquaculture, sod farming, and all farm products and production (193.461(5)). | Property appraiser classifies land on annual basis as agricultural or nonagricultural (193.461(1)). If land is sold for purchase price over double the agricultural assessment of the land, buyer takes land with presumption it is no longer for "bona fide agricultural purposes" and may be subject to higher assessments on nonagricultural land. However, if demonstrated that land will continue to be used for bona fide agricultural purposes, buyer may be able to preserve the agricultural classification (193.461(4)(c)). | CAO DACS |
| Bert J. Harris, Jr. Private Property Protection Act | 70.001 | Establishes a statutory cause of action where governmental interference or action inordinately burdens or limits private property rights without rising to a taking under the State Constitution or the United States Constitution. | Does not apply to laws enacted before May 12, 1995 (70.001(12)). Sets up administrative procedure to follow before filing any lawsuits. If property is classified as agricultural under 193.461, then property owner must file a claim with 90 days for compensation. | |
| Florida Land Use and Environmental Dispute Resolution Act | 70.51 | Creates alternative method of dispute resolution for property owners who believe that development orders or governmental enforcement actions unreasonably or unfairly burden use of property. | Enacted in 1995, it establishes a means to address disputes about development orders issued, modified, or amended, or about enforcement orders issued on or after October 1, 1995. | |
| Law regarding greenbelt classifications and duplicative county regulation of bona fide agricultural operations | 163.3162 | This law prevents counties from adopting ordinances to prohibit, restrict, regulate, or limit a bona fide agricultural operation on land classified as agricultural land pursuant to 193.461, if it duplicates state, federal, or water management district regulations, best management practices, or interim measures. | Reinstates automatic greenbelt renewal for farmers granted an agricultural classification by the property appraiser. Provides that those who failed to return their greenbelt card in 2003 will not lose their classification (193.461). Agricultural enclaves, as defined, include "bona fide agricultural purposes" and surrounded by 75% industrial, commerce, or residential purposes (163.3164(33)). | DACS DEP |
| Law assessing an "Agricultural Privilege Tax" in the Everglades agricultural area | 373.4592 | Tax was originally scheduled to be reduced from \$35 to \$10 per acre starting with tax notices mailed in 2014, but will now be assessed at \$25 per acre through 2017 (373.4592(6)(c)). | | DACS DEP |

| Contact Agencies | |
|---|---|
| CAO | County Property Appraiser's Office |
| DACS | Department of Agriculture and Consumer Services |
| DEP | Department of Environmental Protection |
| Locate local county property appraiser's office in telephone book | |
| Florida Department of Agricultural and Consumer Services (DACS) Office of the Commissioner The Capitol Tallahassee, FL 32399-0800 (850) 488-3022 E-mail: commissioner@doacs.state.fl.us | |
| Florida Department of Environmental Protection (DEP) Office of Citizen Services 3900 Commonwealth Boulevard Tallahassee, FL 32399 (850) 245-2118 [voice] (850) 245-2128 [fax] http://www.dep.state.fl.us/mainpage/default.htm | |
| Central District – Orlando District Management 3319 Maguire Boulevard, Suite 232 Orlando, FL 32803 (407) 894-7555 [voice] (407) 897-6499 [fax] http://www.dep.state.fl.us/central/ | |
| Northeast District – Jacksonville District Management 7825 Baymeadows Way, Suite B200 Jacksonville, FL 32256-75977 (904) 807-3300 [voice] (904) 448-4362 [fax] http://www.dep.state.fl.us/northeast | |
| Northwest District – Pensacola District Management 160 Governmental Center Pensacola, FL 32502-5794 (850) 595-8300 [voice] (850) 595-8417 [fax] http://www.dep.state.fl.us/northwest/ | |
| South District – Fort Myers District Management 2295 Victoria Avenue, Suite 364 Fort Myers, FL 33901-3881 (239) 332-6975 [voice] (239) 332-6969 [fax] http://www.dep.state.fl.us/southeast/default.htm | |

Contact Agencies

Southeast District – West Palm Beach
District Management
400 North Congress Avenue, Suite 200
West Palm Beach, FL 33401
(561) 681-6600 [voice]
(561) 681-6755 [fax]
<http://www.dep.state.fl.us/southeast/default.htm>

Southwest District – Tampa
District Management
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
(813) 632-7600 [voice]
(813) 632-7665 [fax]
<http://www.dep.state.fl.us/southwest/>