

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

Michael T. Olexa and Vanessa Fernandez²

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decisions on which this handbook is based are subject to constant revision, portions of this handbook could become outdated at any time.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 Center for

Agricultural and Natural Resource Law, 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.

A Brief Note on Florida Laws and Rulemaking

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 (DACCS). 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

1. This document is FE113, one of a series of the Food and Resource Economics Department, UF/IFAS Extension. Original publication date November 1999. Revised April 2004, December 2007, June 2014, and August 2018. Visit the EDIS website at <https://edis.ifas.ufl.edu> for the currently supported version of this publication.
2. Michael T. Olexa, Professor, Department of Food and Resource Economics, and director, Center for Agricultural and Natural Resource Law, and member of The Florida Bar; and Vanessa Fernandez, Student, University of Florida Levin College of Law; UF/IFAS Extension Gainesville, FL 32611.

Disclaimer: 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.

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. For more information on obtaining other UF/IFAS Extension publications, contact your county's UF/IFAS Extension office.

U.S. Department of Agriculture, UF/IFAS Extension Service, University of Florida, IFAS, Florida A & M University Cooperative Extension Program, and Boards of County Commissioners Cooperating. Nick T. Place, dean for UF/IFAS Extension.

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/Laws/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 to find the topic:

1. Find “Animal Husbandry” in the Table of Contents ([FE113](#)).
2. Within the Animal Husbandry area locate “Livestock—Exotic Animals” and 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” to 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 to find the topic:

1. 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.
2. 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 does 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, Center for Agricultural and Natural Resource Law
UF/IFAS Food and Resource Economics Department
PO Box 110240
Gainesville, FL 32611-0240

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 the James S. and Dorothy F. Wershow Endowment for funding assistance in the development of this handbook and Nick Place, Ph.D., dean and professor, Office of Dean for Extension and Florida Cooperative Extension Service.

Table 1. Florida agricultural laws: Taxation and property rights related to agricultural lands

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)(a)-(g). Agricultural purposes includes, but is not limited to, forestry, horticulture, floriculture, viticulture, bees, livestock, dairy, poultry, pisciculture, 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)). An owner must apply to the property appraiser by March 1, and may be required to supply information and allow inspection to establish that the property is used for bona fide agricultural purposes. If property was classified as agricultural in the previous year, and ownership and use have not changed, then the owner may reapply using a short form in subsequent years (193.461(3)(a)).	CAO DACS
Bert J. Harris, Jr. Private Property Rights 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 within 90 days for compensation (70.001(4)(a)).	DACS
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.	DACS
Law regarding agricultural enclaves and duplicative county regulation of bona fide agricultural operations	163.3162	This law prevents governmental entities, except WMDs and water control districts, 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.	Provides for presumption that a comprehensive plan amendment for an agricultural enclave is not urban sprawl. Agricultural enclaves, as defined, include land under single ownership that is used for “bona fide agricultural purposes” and surrounded on at least 75% of its perimeter by lands used for industrial, commercial, or residential purposes (163.3164(4)).	DACS DEP
Law assessing an “Agricultural Privilege Tax” in the Everglades agricultural area	373.4592	The tax will gradually be reduced from \$25 per acre to \$10 per acre by 2036. For tax notices mailed in 2014 through 2026 the tax will be assessed at \$25 per acre, decreasing to \$20 per acre in 2027. The tax is scheduled to decrease to \$15 per acre in 2030, and \$10 per acre in 2036 (373.4592(6)(c)(6)).		DACS DEP
Florida Right to Farm Act	823.14	See FE114.	See FE114	DACS
Limitation on liability for public recreational use	375.251	Encourages people to make their lands available to the public for outdoor recreational purposes such as hunting, fishing, wildlife viewing, swimming, hiking, etc. by limiting liability for acts or omissions caused by the person entering the property, so long as the landowner is not deriving revenue from recreational use or charging for entry to the property.	Does not insulate a landowner from liability that would otherwise exist with respect to deliberate, willful, or malicious injury to persons or property.	FWC

Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
Limitation of civil liability for certain farmers	768.137	A farmer who gratuitously allows a person to enter upon the farmer's land for the purpose of removing farm produce or crops is exempt from civil liability arising out of any injury to, or the death of, such person due to the nature or condition of the land or the nature, age, or condition of the farm produce or crops that are removed.	This exemption from civil liability does not apply if the injury or death results from the gross negligence or intentional act of the farmer, or a failure to warn of a dangerous unobvious condition which the farmer has actual knowledge of.	
Search and Seizure using a Drone	934.50	A person, a state agency, or a political subdivision may not use a drone equipped with an imaging device to record an image of privately-owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct surveillance in violation of such person's reasonable expectation of privacy without his or her written consent.	This statute does not prohibit the use of a drone by a person or an entity engaged in a business or profession licensed by the state, or by an agent, employee, or contractor thereof, if the drone is used only to perform reasonable tasks within the scope of practice or activities permitted under such person's or entity's license.	
Land Acquisition Trust Fund	20.142	Establishes a Land Acquisition Trust Fund under DACS to be used as a depository for funds received from the LATF within the DEP. If expenditures from the fund result in state ownership of lands, the lands will be managed by DACS or its designee.	Money from the trust fund may not be invested under 17.61, but shall be retained in the trust fund for investment with interest appropriated to the General Revenue Fund as provided in 17.57.	DACS

Table 2. 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	
Plaza Level 10, The Capitol	
400 South Monroe Street	
Tallahassee, FL 32399-0800	
(800) 435-7352 [voice, toll-free, Florida residents]	
(850) 410-3800 [voice, non-Florida residents]	
http://www.freshfromflorida.com/	
Florida Department of Environmental Protection (DEP)	
3900 Commonwealth Boulevard, M.S. 49	
Tallahassee, FL 32399	
(850) 245-2118 [voice]	
(850) 245-2128 [fax]	
http://www.dep.state.fl.us/mainpage/	
	Central District—Orlando
	District Management
	3319 Maguire Boulevard, Suite 232
	Orlando, FL 32803
	(407) 897-4100 [voice]
	DEP_CD@dep.state.fl.us
	http://www.dep.state.fl.us/central/
	Northeast District—Jacksonville
	District Management
	8800 Baymeadows Way West, Suite 100
	Jacksonville, FL 32256
	(904) 256-1700 [voice]
	(904) 256-1588 [fax]
	http://www.dep.state.fl.us/northeast/
	Northwest District—Pensacola
	District Management
	160 West Governmental Street, Suite 100
	Pensacola, FL 32502
	(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 33902-2549
	(239) 344-5600 [voice]
	http://www.dep.state.fl.us/south/
	Southeast District—West Palm Beach
	District Management
	400 North Congress Avenue, Third Floor
	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
	(813) 470-5700 [voice]
	http://www.dep.state.fl.us/southwest/

Florida Fish and Wildlife Conservation Commission

620 S. Meridian St.

Tallahassee, FL 32399-1600

(850) 488-4676

<http://myfwc.com>