

<b>Tab 1</b>	<b>SB 404 by Rodriguez;</b> (Compare to CS/H 00149) Aquaculture Land Valuation					
665976	D	S	RCS	AG, Rodriguez	Delete everything after	02/10 09:10 AM
547428	AA	S	RCS	AG, Rodriguez	Delete L.17:	02/10 09:10 AM

<b>Tab 2</b>	<b>SB 614 by Garcia;</b> (Similar to CS/H 00721) Authorization of Restrictions Concerning Dangerous Dogs					
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<b>Tab 3</b>	<b>SB 448 by Brodeur;</b> (Similar to CS/CS/H 00723) Veterinary Telehealth					
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<b>Tab 4</b>	<b>CS/SB 1210 by EN, Albritton;</b> (Identical to CS/H 00909) Pollution Control Standards and Liability					
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**AGRICULTURE**  
**Senator Rouson, Chair**  
**Senator Bradley, Vice Chair**

**MEETING DATE:** Thursday, February 10, 2022  
**TIME:** 8:30—10:30 a.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Rouson, Chair; Senator Bradley, Vice Chair; Senators Ausley, Boyd, Burgess, Perry, Polsky, and Rodriguez

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 404</b> Rodriguez (Compare CS/H 149)	Aquaculture Land Valuation; Specifying the methodology for the assessment of structures and equipment located on property used in producing aquacultural products, etc.  AG 02/10/2022 Fav/CS FT AP	Fav/CS Yeas 8 Nays 0
2	<b>SB 614</b> Garcia (Similar CS/H 721)	Authorization of Restrictions Concerning Dangerous Dogs; Authorizing certain housing authorities to adopt certain ordinances, rules, or policies relating to dangerous dogs; removing an exemption for local ordinances adopted before a specified date which pertain to dogs that have bitten or attacked persons or domestic animals, etc.  CA 01/18/2022 Not Considered CA 01/25/2022 Favorable AG 02/10/2022 Favorable RC	Favorable Yeas 8 Nays 0
3	<b>SB 448</b> Brodeur (Similar CS/CS/H 723)  <b>(If Received)</b>	Veterinary Telehealth; Citing this act as the "Providing Equity in Telemedicine Services (PETS) Act"; defining the term "telemedicine"; authorizing veterinarians to practice telemedicine; requiring veterinarians using telemedicine to establish a veterinarian/client/patient relationship and meet certain professional standards; authorizing employees, agents, or contractors of animal control authorities to administer rabies vaccinations under certain circumstances; providing that a supervising veterinarian assumes responsibility for any person vaccinating animals at the supervising veterinarian's discretion or under his or her supervision, etc.  RI 01/18/2022 Temporarily Postponed RI 02/08/2022 Temporarily Postponed AG 02/10/2022 Not Received RC	Not Received

**COMMITTEE MEETING EXPANDED AGENDA**

Agriculture

Thursday, February 10, 2022, 8:30—10:30 a.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 1210</b> Environment and Natural Resources / Albritton (Identical CS/H 909)	Pollution Control Standards and Liability; Providing that the Secretary of Environmental Protection has exclusive jurisdiction in setting standards or procedures for evaluating environmental conditions and assessing potential liability for the presence of contaminants on certain agricultural lands; prohibiting the secretary from delegating such authority to a local governmental entity, etc.  EN 02/07/2022 Fav/CS AG 02/10/2022 Favorable AP	Favorable Yeas 8 Nays 0

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/ SB 404

INTRODUCER: Agriculture/ Senator Rodriguez

SUBJECT: Aquaculture Land Valuation

DATE: February 10, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fink</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 404 provides that land used in the production of aquaculture products shall be assessed based solely on its agricultural use. The bill also provides that, for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products are considered a part of the average yield per acre and carry no separately contributory, or taxable, value. When utilizing the income methodology approach under this section, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in current law.

The bill further provides that once a request for assessment of land used in aquaculture production is approved, the property must be assessed under the same method of assessment for 10 years, unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application for agricultural assessment. If a proper application for agricultural assessment is not made, the property shall be assessed based on its just, or market, value. The bill provides that the provisions apply to assessments made on or after January 1, 2023.

The bill also amends s. 597.003(1)(a), F.S., to clarify that an aquaculture certificate of registration applies to a facility versus an entity.

The Revenue Estimating Conference (REC) has not reviewed the fiscal impact of this version of the bill. REC staff estimates that the bill will reduce local property tax revenues by \$8.4 million in Fiscal Year 2023-2024, with a recurring \$7.5 million reduction.

The bill takes effect January 1, 2023.

## II. Present Situation:

### Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.<sup>1</sup> As provided by statute,<sup>2</sup> an ad valorem tax is a tax assessed upon the value of property.<sup>3</sup> The term "property tax" may be used interchangeably with the term "ad valorem tax."<sup>4</sup> The term "ad valorem" applies to both real and personal property.<sup>5</sup>

However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.<sup>6</sup> Property owners denied classifications or exemptions by the property appraiser may appeal to the value adjustment board.<sup>7</sup>

### Agricultural Classification and Assessment

Pursuant to s. 4, Art. VII of the State Constitution, all agricultural land is assessed solely on the basis of its character or use.<sup>8</sup> For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes."<sup>9</sup> Section 193.461(5), F.S., defines "agricultural purposes" to include, but is not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; all forms of farm products and farm production.<sup>10</sup>

Agricultural classification for land valuation was first created by s. 193.201, F.S. in 1959 because of the express finding that ". . . much of the recent real estate development has tended to increase assessments on farm and agricultural lands and other agricultural products to unreasonable and unprofitable proportions, thus forcing many persons to give up their livelihood because of being taxed out of existence."<sup>11</sup>

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<sup>1</sup> Art. VII, s. 4. of the Florida Constitution

<sup>2</sup> § 192.001(1), Fla. Stat.

<sup>3</sup> *Gilreath v. Westgate Daytona, Ltd.*, 871 So. 2d 961 (Fla. 5th DCA 2004).

<sup>4</sup> § 192.001(1), Fla. Stat.

<sup>5</sup> *Smith v. American Airlines, Inc.*, 606 So. 2d 618 (Fla. 1992).

<sup>6</sup> See s. 196.031, F.S.

<sup>7</sup> See ss. 193.461, 193.503, and 193.625, F.S.

<sup>8</sup> Art. VII, s. 4(a), of the Florida Constitution.

<sup>9</sup> Section 193.461(3)(b), F.S.

<sup>10</sup> Section 193.461(5), F.S.

<sup>11</sup> Ch. 59-226, Laws of Florida [s. 193.201, F. S. 1959](see also Fl. Att’y Gen. Op. No. AGO 75-134 (May 9, 1975)).

### **Income Methodology Approach**

Section 193.461, F.S., provides requirements and directions to property appraisers for the assessment of agricultural lands. There are listed criteria for assessment, one of which is the income methodology approach which uses actual agricultural production on a parcel of property as a measure of the value of that particular property. Under this approach, productive agricultural property is assessed in a manner that reflects the rises and falls in the agriculture business by using a five-year moving average to establish the property's value.<sup>12</sup>

### **III. Effect of Proposed Changes:**

SB 404 creates s. 193.4611, F.S., and provides that aquaculture-use land shall be assessed based solely on its agricultural use, consistent with s. 193.461(6)(a), F.S.

The bill also requires that for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products are considered a part of the average yield per acre and carry no separately contributory, or taxable, value.

The bill also requires that when utilizing the income methodology approach, the property appraiser shall rely on 5-year moving average data, notwithstanding any provision relating to annual assessment found in s. 192.042, F.S.

This bill further provides that once a request for assessment under s. 193.4613, F.S. is approved, the property must be assessed under the same method of assessment, as provided in s. 193.4613, F.S., for 10 years unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application for agricultural assessment.

The bill also requires that if a proper application for agricultural assessment is not made, the property shall be assessed based on its just, or market, value, pursuant to s. 193.011, F.S.

The bill provides that the provisions apply to assessments made on or after January 1, 2023.

The bill also amends s. 597.003(1)(a), F.S., to clarify that an aquaculture certificate of registration applies to a facility versus an entity.

The bill takes effect January 1, 2023.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>12</sup> See s. 193.461, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference (REC) has not reviewed the fiscal impact of this version of the bill. REC staff estimates that the bill will reduce local property taxes by \$8.4 million in Fiscal Year 2021-2024, with a recurring \$7.5 million reduction.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:****VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates section 193.4611 of the Florida Statutes.

The bill substantially amends section 597.003 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Agriculture on February 10, 2022:**

The amendment creates s. 193.4611, F.S, rather than adding on to s. 193.461, F.S., and adds a number of provisions to the bill.

The amendment adds definitions for "aquaculture" and "aquaculture products," establishing that these terms have the same meanings as in s. 597.0015, F.S. It requires that when proper application has been made for agricultural assessment, land used in the production of aquaculture products shall be assessed solely on its agricultural use. It also requires property appraisers to rely on 5-year moving average data when using the income methodology approach in an assessment of such property.

The amendment maintains the requirement that, for purposes of the income methodology approach to the assessment of land used to produce aquaculture products, structures and equipment are considered part of the average yield per acre, rather than separately assessable value. It requires that once a request has been made for agricultural assessment, the property must be assessed in this manner for 10 years, unless the ownership or use of the property changes. The property appraiser may not require annual application, but may require annual audited financial statements. When proper application has not been made, the land shall be assessed as provided in s. 193.011, F.S. This assessment methodology applies to assessments made on or after January 1, 2023.

The amendment amends s. 597.003(1)(a), F.S., to clarify that an aquaculture certificate of registration applies to a facility versus an entity.

The effective date is changed from July 1, 2022 to January 1, 2023.

- B. **Amendments:**

None.



665976

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
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	.	
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The Committee on Agriculture (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 193.4611, Florida Statutes, is created  
to read:

193.4611 Agricultural lands; aquaculture assessment.-

(1) For purposes of this section, the terms "aquaculture"  
and "aquaculture products" have the same meanings as in s.  
597.0015.



665976

11       (2) (a) When proper application for agricultural assessment  
12 has been made and granted pursuant to s. 193.461, and the  
13 property owner requests assessment pursuant to this section, the  
14 assessment of land used in the production of aquaculture  
15 products shall be based solely on its agricultural use,  
16 consistent with the use factors specified in s. 193.461(6) (a),  
17 and assessed pursuant to paragraph (b).

18       (b) Notwithstanding any provision relating to annual  
19 assessment found in s. 192.042, the property appraiser shall  
20 rely on 5-year moving average data when using the income  
21 methodology approach in an assessment of property pursuant to  
22 this section.

23       (c) For purposes of the income methodology approach to the  
24 assessment of land used in the production of aquaculture  
25 products, structures and equipment located on the property used  
26 for producing aquaculture products are considered a part of the  
27 average yield per acre and have no separately assessable  
28 contributory value.

29       (d) Once a request for assessment under this section is  
30 granted, the property must be assessed as provided in this  
31 section for 10 years unless the ownership or use of the property  
32 changes. The property appraiser may not require annual  
33 application. The property appraiser may require the property  
34 owner to annually submit audited financial statements.

35       (e) When proper application for agricultural assessment has  
36 not been made, the land shall be assessed as provided in s.  
37 193.011.

38       Section 2. Section 193.4611, Florida Statutes, as created  
39 by this act, applies to assessments made on or after January 1,



665976

40 2023.

41 Section 3. Paragraph (a) of subsection (1) of section  
42 597.003, Florida Statutes, is amended to read:

43 597.003 Powers and duties of Department of Agriculture and  
44 Consumer Services.—

45 (1) The department is hereby designated as the lead agency  
46 in encouraging the development of aquaculture in the state and  
47 shall have and exercise the following functions, powers, and  
48 duties with regard to aquaculture:

49 (a) Issue or deny aquaculture certificates that identify  
50 aquaculture producers and aquaculture products, and collect all  
51 related fees. The department may revoke an aquaculture  
52 certificate of registration issued pursuant to s. 597.004 upon a  
53 finding that aquaculture is not the primary purpose of the  
54 certified facility's ~~entity's~~ operation.

55 Section 4. This act shall take effect January 1, 2023.

56

57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause  
60 and insert:

61 A bill to be entitled  
62 An act relating to aquaculture; creating s. 193.4611,  
63 F.S.; defining the terms "aquaculture" and  
64 "aquaculture products"; providing for the assessment  
65 of land used in the production of aquaculture based  
66 solely on its use; requiring a property appraiser to  
67 use a specified assessment methodology; providing  
68 construction; requiring property to be assessed for a



665976

69 certain period of time using a certain assessment  
70 methodology; authorizing the property appraiser to  
71 require property owners to annually submit audited  
72 financial statements; requiring land to be assessed  
73 using a specified methodology under certain  
74 circumstances; providing applicability; amending s.  
75 597.003, F.S.; revising the authority of the  
76 Department of Agriculture and Consumer Services to  
77 revoke aquaculture certificates of registration to  
78 apply to facilities, rather than entities; providing  
79 an effective date.



547428

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
	.	
	.	
	.	

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The Committee on Agriculture (Rodriguez) recommended the following:

- 1       **Senate Amendment to Amendment (665976)**
- 2
- 3       Delete line 17
- 4       and insert:
- 5       and assessed pursuant to paragraph (c).

By Senator Rodriguez

39-00627A-22

2022404\_\_

1                                   A bill to be entitled  
2       An act relating to aquaculture land valuation;  
3       amending s. 193.461, F.S.; specifying the methodology  
4       for the assessment of structures and equipment located  
5       on property used in producing aquacultural products;  
6       providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10       Section 1. Paragraph (c) of subsection (6) of section  
11       193.461, Florida Statutes, is amended to read:

12       193.461 Agricultural lands; classification and assessment;  
13       mandated eradication or quarantine program; natural disasters.-

14       (6)

15       (c)1. For purposes of the income methodology approach to  
16       assessment of property used for agricultural purposes,  
17       irrigation systems, including pumps and motors, physically  
18       attached to the land shall be considered a part of the average  
19       yields per acre and shall have no separately assessable  
20       contributory value.

21       2. Litter containment structures located on producing  
22       poultry farms and animal waste nutrient containment structures  
23       located on producing dairy farms shall be assessed by the  
24       methodology described in subparagraph 1.

25       3. Structures or improvements used in horticultural  
26       production for frost or freeze protection, which are consistent  
27       with the interim measures or best management practices adopted  
28       by the Department of Agriculture and Consumer Services pursuant  
29       to s. 570.93 or s. 403.067(7)(c), shall be assessed by the

39-00627A-22

2022404\_\_

30 methodology described in subparagraph 1.

31 4. Screened enclosed structures used in horticultural  
32 production for protection from pests and diseases or to comply  
33 with state or federal eradication or compliance agreements shall  
34 be assessed by the methodology described in subparagraph 1.

35 5. For purposes of the income methodology approach to  
36 assessment of land used in the production of aquacultural  
37 products, structures and equipment located on the property used  
38 for producing aquacultural products are considered a part of the  
39 average yields per acre and have no separately assessable  
40 contributory value.

41 Section 2. This act shall take effect July 1, 2022.

2/10/21

The Florida Senate  
**APPEARANCE RECORD**

404

Meeting Date  
(S) Agriculture

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic  
665976

Committee

Amendment Barcode (if applicable)

Name Robby Holroyd

Phone 954-803-0231

Address 205 S. Adams St.

Email REH@trippscott.com

Street  
Tallahassee FL 32301  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Bio-Technology Innovation Organization

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting..

S-001 (08/10/2021)

# APPEARANCE RECORD

404

Bill Number or Topic

2/10/21

Meeting Date

(S) Agriculture

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Robby Holroyd

Phone

954-803-0231

Address

205 S. Adams St.

Email

REH@trippscott.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/10

Meeting Date

404

Bill Number or Topic

Agriculture

Committee

Amendment Barcode (if applicable)

Name

Ellyn Bogdanoff

Phone

954 364-6005

Address

1 E Blvd Blvd

Email

ebogdanoff@beckerlawyers.com

Street

Ft. LAUD FL 33301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 614

INTRODUCER: Senator Garcia

SUBJECT: Authorization of Restrictions Concerning Dangerous Dogs

DATE: February 9, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 614 makes two changes to Florida’s “Dangerous Dogs” law. First, the bill incorporates “public housing authorities” into the statute that authorizes counties and municipalities to address safety and welfare concerns caused by attacks on persons or domestic animals by dogs by ordinance, provided such regulation is not specific to the breed of the dog. Thus, the bill authorizes a public housing authority to enact a rule or a policy to address dangerous dogs, but such rule or policy may not be breed specific. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds of dogs on housing authority property.

Second, the bill removes the grandfather provision in statute, which allows local governments to enforce dog breed-specific regulations, if the ordinance enacting such regulations was adopted before October 1, 1990. This change effectively nullifies Miami-Dade County’s regulations and restrictions on owners of “pit bull dogs.”

The bill takes effect October 1, 2022.

**II. Present Situation:**

**Dangerous Dogs**

Part II of ch. 767, F.S., outlines the state’s “Dangerous Dogs” provisions, originally enacted in 1990.<sup>1</sup> The Legislature found that “dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of the owners to confine and properly train and control their dogs; that existing laws

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<sup>1</sup> Ch. 90-180, L.O.F.

inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements on the owners of dangerous dogs.”<sup>2</sup>

A “dangerous dog” is defined as a dog that:

- Has aggressively bitten, attacked, endangered or inflicted severe injury on a person on public or private property;
- Has more than one time severely injured or killed a domestic animal while the dog is off the owner’s property; or
- Has, when unprovoked, chased or approached a person in public in a menacing fashion, or with an attitude of attack.<sup>3</sup>

### *Process for Classification of Dogs as Dangerous*

An animal control officer or employee is typically the person who would investigate an incident involving a dog. In areas unserved by an animal control authority, the sheriff assumes the duties required of an animal control officer.<sup>4</sup>

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous.<sup>5</sup> An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held.<sup>6</sup> A dog that is being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.<sup>7</sup>

The animal control authority may not declare a dog as dangerous if:

- The injured person was unlawfully on the property, or if lawfully on the property was tormenting, abusing, or assaulting the dog or its owner or a family member; or
- The dog was protecting a person within the immediate vicinity of the dog from an unjustified attack or assault.<sup>8</sup>

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous and if sufficient cause is found, provide the owner an opportunity for a hearing before making a final determination regarding the classification or penalty.<sup>9</sup> The animal control authority must provide written notice of sufficient cause and

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<sup>2</sup> Section 767.10, F.S.

<sup>3</sup> Section 767.11(1), F.S., requires an appropriate authority to document a dog as a dangerous dog. Section 767.11(2), F.S., further defines what is meant by “unprovoked” as that the victim whom while acting peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog. A severe injury is any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery. Section 767.11(3), F.S.

<sup>4</sup> Section 767.11(5) and (6), F.S.

<sup>5</sup> Section 767.12(1), F.S.

<sup>6</sup> Section 767.12(1)(a), F.S.

<sup>7</sup> Section 767.12(1)(b), F.S.

<sup>8</sup> Section 767.12(2)(a-b), F.S.

<sup>9</sup> Section 767.12(3), F.S.

proposed penalty to the owner by registered mail, certified hand delivery, or service in conformity with how service of process is made.

The owner has 7 calendar days from receiving the notice to file a written request for a hearing. The hearing officer must hold the hearing as soon as possible, no more than 21 calendar days, and no sooner than 5 days after receiving the request for hearing.<sup>10</sup> If a hearing is not timely requested the authority's determination becomes final.

### ***Local Government Regulation of Dangerous Dogs***

Current law authorizes local governments to place further restrictions and additional requirements on owners of dogs that have bitten or attacked persons or domestic animals.<sup>11</sup> However, no local regulation may be breed-specific, or lessen the provisions of ch. 767, F.S., unless the regulation was adopted prior to October 1, 1990.<sup>12</sup> Breed-specific regulation is a term used for laws and ordinances that seek to reduce dog attacks on humans and other animals by regulating or banning a specific breed of dog.<sup>13</sup> Florida is one of twenty-one states that prohibit local governments from enacting breed specific ordinances.<sup>14</sup>

Because of the 1990 grandfather provision, Miami-Dade County<sup>15</sup> and the City of Sunrise<sup>16</sup> are known to be the only two local governments in Florida with breed specific ordinances currently in effect. Miami-Dade's ordinance provides that pit bull dogs should be banned from purchase, from being brought into Miami-Dade County, or otherwise acquired and regulated due to unique history, nature and characteristics which require special regulation. The county defines "pit bull dog" with reference to the descriptions given by the American Kennel Club and the United Kennel Club. In 2012, Miami-Dade County held a referendum to gauge public opinion on keeping the ordinance in place. Over 63 percent of voters chose to keep the county's regulation of pit bull dogs in place.<sup>17</sup>

### **Public Housing Authorities**

The federal government has created programs to provide housing assistance to lower-income households since the 1930s. Public housing developments which provide low-rent opportunities are generally owned and operated by the local public housing authorities (PHAs) in each state and subsidized and regulated by the federal government. Families are eligible to live in public housing if they are low-income<sup>18</sup> but 40 percent of public housing units that become available in

---

<sup>10</sup> Section 767.12(3), F.S.

<sup>11</sup> Section 767.14, F.S.

<sup>12</sup> Section 767.14, F.S.

<sup>13</sup> What Is Breed-Specific Legislation?, ASPCA, available at: <https://www.aspc.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited Feb. 9, 2022).

<sup>14</sup> What Is Breed-Specific Legislation? ASPCA, available at: <https://www.aspc.org/improving-laws-animals/public-policy/what-breed-specific-legislation> (last visited Feb. 9, 2022).

<sup>15</sup> Ord. No. 89-22, § 2, 4-4-89

<sup>16</sup> Ord. No. 251-A, § 2(4-17), 5-2-89

<sup>17</sup> Official election records available at <https://enr.electionsfl.org/DAD/3042/Summary/> (last visited Feb. 9, 2022).

<sup>18</sup> Low income is defined as earning at or below 80% of area median income for these purposes, Congressional Research Service, Overview of Federal Housing Assistance Programs and Policy, available at: <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last visited Feb. 9, 2022).

a year must be given to families that are extremely low-income.<sup>19</sup> Families living in public housing typically are required to pay 30 percent of their adjusted income toward rent.

PHAs receive several streams of funding from United States Department of Housing and Urban Development (HUD) to help make up the difference between what tenants pay in rent and what it costs to maintain public housing.<sup>20</sup> PHAs receive operating funds and capital funds through a formula allocation process; operating funds are used for management, administration and day-to-day costs of running a housing development, and capital funds are used for modernization needs (i.e., replacing a roof or heating and cooling system).<sup>21</sup> Most PHAs own and manage the public housing developments themselves, but some contract with private management companies or transfer ownership to a private subsidiary or another entity that operates the development under public housing rules.<sup>22</sup>

There are 99 active HUD-registered PHAs in Florida,<sup>23</sup> of which 91 are special districts.<sup>24</sup> PHAs are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body. The powers of each authority are vested in housing authority commissioners and action may be taken upon a majority vote of the commissioners.<sup>25</sup> Housing authorities have the power to:

- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Invest funds held in reserves or sinking funds.<sup>26</sup>

### ***Pet Regulation in Public Housing Authorities***

HUD regulations permit public housing tenants to own common household pets.<sup>27</sup> However, HUD allows local PHAs to enforce reasonable restrictions on the types of common household pets allowed in their rules and policies.<sup>28</sup> A tenant in public housing must maintain each pet responsibly, in accordance with relevant state and local public health, animal control and anti-cruelty laws, and in accordance with the policies established in the PHA's Annual Plan.<sup>29</sup>

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<sup>19</sup> Extremely low income is defined as earning at or below the greater of 30% of area median income or the federal poverty guidelines. Congressional Research Service, *Overview of Federal Housing Assistance Programs and Policy*, available at: <https://crsreports.congress.gov/product/pdf/RL/RL34591> (last visited Feb. 9, 2022).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Center on Budget and Policy Priorities, *Policy Basics: Public Housing*, available at: <https://www.cbpp.org/research/public-housing> (last visited Feb. 9, 2022).

<sup>23</sup> HUD, *Public Housing Authority Contact Information*, available at: [https://www.hud.gov/sites/dfiles/PIH/documents/PHA\\_Contact\\_Report\\_FL.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PHA_Contact_Report_FL.pdf) (last visited Feb. 9, 2022).

<sup>24</sup> Florida Department of Economic Opportunity, *Official List of Special Districts Online*, available at: <http://specialdistrictreports.floridajobs.org/webreports/sumfunctionlist.aspx> (last visited Feb. 9, 2022).

<sup>25</sup> *Id.*

<sup>26</sup> Section 421.08, F.S.

<sup>27</sup> See HUD *Public Housing Occupancy Guidebook*, *Pet Ownership in Public Housing*, December 2020, available at: <https://www.hud.gov/sites/dfiles/PIH/documents/PHOGPetOwnership.pdf> (last visited Feb. 9, 2022).

<sup>28</sup> 24 CFR § 5.318(a); § 960.707(b)

<sup>29</sup> 24 CFR § 960.707(a)

A PHA's reasonable requirements for pet policies in general occupancy developments may include but are not limited to tenant and pet density; size, weight, and type of pets; pet fees and deposits; pet care and handling; and pet registration. PHAs have discretion to consider additional factors if reasonable and consistent with state or local law.<sup>30</sup>

Currently, some PHAs include provisions in their policies prohibiting pets based on breed, behavior, or training of the pet.<sup>31</sup> However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.<sup>32</sup>

### III. Effect of Proposed Changes:

The bill amends s. 767.14, F.S., to authorize PHAs to adopt rules or policies imposing restrictions or further requirements on owners of dogs deemed dangerous, as defined by Florida law, as long as such requirements are not specific to breed. This provision is current law for local governments. This change effectively nullifies any existing restrictions imposed by housing authorities pertaining to specific breeds of dogs for housing authority tenants.

The bill also removes a provision that exempts local ordinances adopted before October 1, 1990 from the prohibition on enacting ordinances that are specific to certain breeds of dogs. This change nullifies any breed-specific local government ordinances currently in place.

The bill takes effect on October 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

---

<sup>30</sup> 7 24 CFR § 960.707

<sup>31</sup> See e.g., Tampa Housing Authority, <https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf> (last visited Jan. 3, 2022) (forbidding "Pit bull, Rottweiler, German Shepherd, Chow, Doberman Pinscher or any species considered vicious, intimidating, or kept for the purpose of training for fighting or wagering of bets"); St. Petersburg Housing Authority, [https://www.stpeteha.org/plugins/show\\_image.php?id=1912](https://www.stpeteha.org/plugins/show_image.php?id=1912) (last visited Feb. 9, 2022) (prohibiting "any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs . . . certain breeds may be prohibited at the discretion of [St. Petersburg Housing Authority]"); Key West Housing Authority, [https://www.kwha.org/egov/documents/1614973714\\_73249.pdf](https://www.kwha.org/egov/documents/1614973714_73249.pdf) (last visited Feb. 9, 2022) (prohibiting "vicious or intimidating pets. Dog breeds including pitbull, rottweiler, Doberman, are considered vicious or intimidating breeds").

<sup>32</sup> See s. 767.11(1), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 767.14 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Garcia

37-00747B-22

2022614\_\_

1                   A bill to be entitled  
2           An act relating to the authorization of restrictions  
3           concerning dangerous dogs; amending s. 767.14, F.S.;  
4           authorizing certain housing authorities to adopt  
5           certain ordinances, rules, or policies relating to  
6           dangerous dogs; removing an exemption for local  
7           ordinances adopted before a specified date which  
8           pertain to dogs that have bitten or attacked persons  
9           or domestic animals; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Section 767.14, Florida Statutes, is amended to  
14           read:

15           767.14 Additional local restrictions authorized.—This act  
16           does not limit any local government or housing authority created  
17           by or pursuant to s. 421.04, s. 421.27, or s. 421.28 from  
18           adopting an ordinance, a rule, or a policy to address the safety  
19           and welfare concerns caused by attacks on persons or domestic  
20           animals, placing further restrictions or additional requirements  
21           on owners of dogs that have bitten or attacked persons or  
22           domestic animals, or developing procedures and criteria for the  
23           implementation of this act, provided that no such regulation is  
24           specific to breed and that the provisions of this act are not  
25           lessened by such additional regulations or requirements. ~~This~~  
26           ~~section does not apply to any local ordinance adopted prior to~~  
27           ~~October 1, 1990.~~

28           Section 2. This act shall take effect October 1, 2022.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

02-10-2022

Meeting Date

614

Bill Number or Topic

Agriculture

Committee

Amendment Barcode (if applicable)

Name Denise Lasher

Phone 813.240.4567

Address 17513 Mallard Ct  
Street

Email lasherzinc@gmail.com

City Lutz State FL Zip 33559

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/10/22

Meeting Date

Ag

Committee

614

Bill Number or Topic

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Phone 727.421.6902

Address P.O. Box 2020

Email travis@moore-relations.com

Street

St. Petersburg FL 33731

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Animal Legal Defense Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/10/22

Meeting Date

SB 614

Bill Number or Topic

Agriculture

Committee

Amendment Barcode (if applicable)

Name Kate MacFall

Phone 850 508-1001

Address 1206 Waltz Dr.

Street

Email kmacfall@hsus.org

Tallahassee FL

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Humane Society of the United States

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

By Senator Brodeur

9-00429C-22

2022448\_\_

1                   A bill to be entitled  
2       An act relating to veterinary telehealth; providing a  
3       short title; amending s. 474.202, F.S.; defining the  
4       term "telemedicine"; creating s. 474.2021, F.S.;  
5       authorizing veterinarians to practice telemedicine;  
6       requiring veterinarians using telemedicine to  
7       establish a veterinarian/client/patient relationship  
8       and meet certain professional standards; prohibiting  
9       such veterinarians from prescribing controlled  
10      substances under certain circumstances; providing an  
11      exception; providing licensure requirements to  
12      practice telemedicine; providing jurisdiction of the  
13      Florida Board of Veterinary Medicine; providing  
14      construction; amending s. 828.30, F.S.; authorizing  
15      employees, agents, or contractors of animal control  
16      authorities to administer rabies vaccinations under  
17      certain circumstances; providing that a supervising  
18      veterinarian assumes responsibility for any person  
19      vaccinating animals at the supervising veterinarian's  
20      discretion or under his or her supervision; defining  
21      the term "indirect supervision"; authorizing a  
22      veterinarian who indirectly supervises the  
23      administration of the rabies vaccination to affix his  
24      or her signature stamp on a rabies vaccination  
25      certificate; amending ss. 474.203 and 474.214, F.S.;  
26      conforming provisions to changes made by the act;  
27      providing an effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

9-00429C-22

2022448\_\_

30  
31 Section 1. This act may be cited as the "Providing Equity  
32 in Telemedicine Services (PETS) Act."

33 Section 2. Present subsections (11), (12), and (13) of  
34 section 474.202, Florida Statutes, are redesignated as  
35 subsections (12), (13), and (14), respectively, and a new  
36 subsection (11) is added to that section, to read:

37 474.202 Definitions.—As used in this chapter:

38 (11) "Telemedicine" means the practice of veterinary  
39 medicine, including diagnosis, consultation, evaluation,  
40 treatment, or transfer of medical data, by means of a two-way,  
41 real-time interactive communication between a client and patient  
42 and a veterinarian who has access to and the ability to review  
43 the patient's relevant information before the telemedicine  
44 visit.

45 Section 3. Section 474.2021, Florida Statutes, is created  
46 to read:

47 474.2021 Veterinary telemedicine.—

48 (1) A veterinarian may practice telemedicine.

49 (2) A veterinarian who uses telemedicine:

50 (a) Shall take appropriate steps to establish a  
51 veterinarian/client/patient relationship and conduct all  
52 appropriate evaluations and collect appropriate histories of the  
53 patient, consistent with prevailing professional standards of  
54 care for the specific patient presentation.

55 (b) May not prescribe controlled substances if he or she  
56 has not previously performed an in-person physical examination  
57 or made medically appropriate and timely visits to the premises  
58 where the animal is kept. However, a consulting veterinarian

9-00429C-22

2022448\_\_

59 using telemedicine may prescribe controlled substances for a  
60 terminal patient transferred to the consulting veterinarian for  
61 hospice care from a veterinarian who performed an in-person  
62 physical examination of the patient and provided medical records  
63 to the consulting veterinarian.

64 (c) Must hold a current license to practice veterinary  
65 medicine in this state. The practice of medicine occurs where  
66 the veterinarian or the patient, or both, are located at the  
67 time the veterinarian practices telemedicine.

68 (3) The board has jurisdiction over a veterinarian  
69 practicing telemedicine in this state, regardless of where the  
70 veterinarian's physical offices are located. The practice of  
71 telemedicine in accordance with this section is not a standard  
72 of care violation, and a veterinarian may not be disciplined  
73 solely for practicing telemedicine.

74 Section 4. Subsections (1) and (3) of section 828.30,  
75 Florida Statutes, are amended to read:

76 828.30 Rabies vaccination of dogs, cats, and ferrets.—

77 (1)(a) All dogs, cats, and ferrets 4 months of age or older  
78 must be vaccinated by a licensed veterinarian or, in the case of  
79 impounded animals, a person authorized under paragraph (b),  
80 against rabies with a vaccine ~~that is~~ licensed by the United  
81 States Department of Agriculture for use in those species.

82 (b) An employee, an agent, or a contractor of an animal  
83 control authority acting under the indirect supervision of a  
84 veterinarian may vaccinate impounded dogs, cats, and ferrets  
85 that will be transferred, rescued, fostered, adopted, or  
86 reclaimed by the owner. The supervising veterinarian assumes  
87 responsibility for any person vaccinating animals at his or her

9-00429C-22

2022448\_\_

88 direction or under his or her supervision. As used in this  
89 paragraph, the term "indirect supervision" means that the  
90 supervising veterinarian is required to be available for  
91 consultation through telecommunications but is not required to  
92 be physically present during such consultation.

93 (c) The owner of every dog, cat, and ferret shall have the  
94 animal revaccinated 12 months after the initial vaccination.  
95 Thereafter, the interval between vaccinations shall conform to  
96 the vaccine manufacturer's directions. The cost of vaccination  
97 must be borne by the animal's owner. Evidence of circulating  
98 rabies virus neutralizing antibodies may ~~shall~~ not be used as a  
99 substitute for current vaccination in managing rabies exposure  
100 or determining the need for booster vaccinations.

101 (3) Upon vaccination against rabies, the licensed  
102 veterinarian shall provide the animal's owner and the animal  
103 control authority with a rabies vaccination certificate. Each  
104 animal control authority and veterinarian shall use the "Rabies  
105 Vaccination Certificate" of the National Association of State  
106 Public Health Veterinarians (NASPHV) or an equivalent form  
107 approved by the local government which ~~that~~ contains ~~all~~ the  
108 information required by the NASPHV Rabies Vaccination  
109 Certificate. The veterinarian who administers the rabies  
110 vaccination, or who supervises the administration of the rabies  
111 vaccination as provided in paragraph (1) (b), vaccine to an  
112 animal as authorized ~~required~~ under this section may affix his  
113 or her signature stamp in lieu of an actual signature.

114 Section 5. Paragraph (a) of subsection (5) of section  
115 474.203, Florida Statutes, is amended to read:

116 474.203 Exemptions.—This chapter does not apply to:

9-00429C-22

2022448\_\_

117 (5) (a) Any person, or the person's regular employee,  
118 administering to the ills or injuries of her or his own animals,  
119 including, but not limited to, castration, spaying, and  
120 dehorning of herd animals, unless title is transferred or  
121 employment provided for the purpose of circumventing this law.  
122 This exemption does not apply to any person licensed as a  
123 veterinarian in another state or foreign jurisdiction and  
124 practicing temporarily in this state. However, except as  
125 provided in s. 828.30, only a veterinarian may immunize or treat  
126 an animal for diseases that are communicable to humans and that  
127 are of public health significance.

128  
129 For the purposes of chapters 465 and 893, persons exempt  
130 pursuant to subsection (1), subsection (2), or subsection (4)  
131 are deemed to be duly licensed practitioners authorized by the  
132 laws of this state to prescribe drugs or medicinal supplies.

133 Section 6. Paragraph (y) of subsection (1) of section  
134 474.214, Florida Statutes, is amended to read:

135 474.214 Disciplinary proceedings.—

136 (1) The following acts shall constitute grounds for which  
137 the disciplinary actions in subsection (2) may be taken:

138 (y) Using the privilege of ordering, prescribing, or making  
139 available medicinal drugs or drugs as defined in chapter 465, or  
140 controlled substances as defined in chapter 893, for use other  
141 than for the specific treatment of animal patients for which  
142 there is a documented veterinarian/client/patient relationship.

143 ~~Pursuant thereto,~~ The veterinarian shall:

144 1. Have sufficient knowledge of the animal to initiate at  
145 least a general or preliminary diagnosis of the medical

9-00429C-22

2022448\_\_

146 condition of the animal, which means that the veterinarian is  
147 personally acquainted with the keeping and caring of the animal  
148 and has recently performed an examination of the animal or group  
149 of animals either physically in person or by the use of  
150 instrumentation and diagnostic equipment through which images  
151 and medical records may be transmitted electronically ~~seen the~~  
152 ~~animal~~ or has made medically appropriate and timely visits to  
153 the premises where the animal is kept.

154 2. Be available or provide for follow-up ~~followup~~ care and  
155 treatment in case of adverse reactions or failure of the regimen  
156 of therapy.

157 3. Maintain records which document patient visits,  
158 diagnosis, treatment, and other relevant information required  
159 under this chapter.

160 Section 7. This act shall take effect July 1, 2022.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 1210

INTRODUCER: Environment and Natural Resources Committee and Senator Albritton

SUBJECT: Pollution Control Standards and Liability

DATE: February 9, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Roger</u>	<u>EN</u>	<b>Fav/CS</b>
2.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

PLEASE MAKE SELECTION

---

**I. Summary:**

CS/SB 1210 amends s. 403.182, F.S., regarding local pollution control programs. The bill provides that notwithstanding existing law or any existing local pollution control programs, the Secretary of the Department of Environmental Protection (DEP) has exclusive jurisdiction in setting standards or procedures for evaluating environmental conditions and assessing potential liability for the presence of contaminants on land that is classified as agricultural land pursuant to state law and being converted to a nonagricultural use. This exclusive jurisdiction includes defining what constitutes all appropriate inquiry required by federal law relating to the innocent landowners defense under CERCLA and associated guidance.

For land that is classified as agricultural land pursuant to state law and being converted to a nonagricultural use, the bill provides that the Secretary of DEP may not delegate the authority to set standards or procedures for evaluating environmental conditions and assessing potential liability described in the bill to a county, a municipality, or another unit of local government through a local pollution control program. However, the bill does not preempt the enforcement authority of a county, a municipality, or another unit of local government through a local pollution control program.

The bill does not apply to former agricultural land for which a permit has been approved by a local government to initiate development or for which development was completed on or before July 1, 2022.

## II. Present Situation:

### Classification of Agricultural Lands

Section 193.461(1), F.S., requires state property appraisers to classify for ad valorem tax assessment purposes all lands within their counties as agricultural or nonagricultural.<sup>1</sup> Only lands that are used primarily for bona fide agricultural purposes may be classified agricultural.<sup>2</sup>

The term “bona fide agricultural purposes” means good faith commercial agricultural use of the land.<sup>3</sup> The term “agricultural purposes” includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in state law; algaculture; sod farming; and all forms of farm products as defined in state law; and farm production.<sup>4</sup>

In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- The length of time the land has been so used;
- Whether the use has been continuous;
- The purchase price paid;
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment;
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices;
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease; and
- Such other factors as may become applicable.<sup>5</sup>

In contrast, nonagricultural lands are lands that have either been diverted from an agricultural to a nonagricultural use, or are no longer being utilized for agricultural purposes.<sup>6</sup>

### Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)<sup>7</sup> is commonly known as Superfund.<sup>8</sup> Thousands of contaminated sites exist nationally due to

---

<sup>1</sup> Section 193.461(2), F.S.

<sup>2</sup> Section 193.461(3)(b), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 193.461(5), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Section 193.461(4), F.S.

<sup>7</sup> 42 U.S.C. ss. 9601 et seq.

<sup>8</sup> EPA, *What is CERCLA?*, [https://usepa.servicenowservices.com/ecss?id=kb\\_article\\_view&sys\\_kb\\_id=12ec93221bb99c1013bdb913cc4bcb32](https://usepa.servicenowservices.com/ecss?id=kb_article_view&sys_kb_id=12ec93221bb99c1013bdb913cc4bcb32) (last visited Feb. 9, 2022).

hazardous waste being dumped, left out in the open, or otherwise improperly managed.<sup>9</sup> These sites include manufacturing facilities, processing plants, landfills, and mining sites.<sup>10</sup>

CERCLA created a tax on the chemical and petroleum industries and required that the money collected be used to clean up hazardous waste sites throughout the country.<sup>11</sup> Superfund allows the U.S. Environmental Protection Agency (EPA) to clean up contaminated sites.<sup>12</sup> It also forces the parties responsible for the contamination to either perform cleanups or reimburse the government for EPA-led cleanup work.<sup>13</sup> When there is no viable responsible party, Superfund gives EPA the funds and authority to clean up contaminated sites.<sup>14</sup>

Federal agencies must comply with substantive and procedural CERCLA requirements to the same extent as private entities.<sup>15</sup> The following sequence of events generally applies to all sites, both privately and federally-owned or operated: preliminary assessment; site investigation; listing on the National Priorities List; remedial investigation; feasibility study; record of decision; remedial design; remedial action; long-term operation; and maintenance.<sup>16</sup> The remedy selected for cleanup at a federal facility must meet CERCLA's cleanup standards.<sup>17</sup>

### *All Appropriate Inquiries*

All appropriate inquiries (AAI)<sup>18</sup> is the process of evaluating a property's environmental conditions and assessing potential liability for any contamination.<sup>19</sup> AAI requirements apply to any party who can potentially claim protection from CERCLA liability as an innocent landowner, contiguous property owner, or bona fide prospective purchasers (BFPPs).<sup>20</sup>

Title 40, Part 312 of the Code of Federal Regulations (AAI Final Rule) provides that AAI investigations must be documented in a written report prepared by an environmental

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<sup>9</sup> EPA, *What is Superfund?*, [https://usepa.servicenowservices.com/ecss?id=kb\\_article\\_view&sys\\_kb\\_id=2e020af01b215410a5dced39bc4bcb98](https://usepa.servicenowservices.com/ecss?id=kb_article_view&sys_kb_id=2e020af01b215410a5dced39bc4bcb98) (last visited Feb. 9, 2022).

<sup>10</sup> *Id.*

<sup>11</sup> EPA, *What is CERCLA?*, [https://usepa.servicenowservices.com/ecss?id=kb\\_article\\_view&sys\\_kb\\_id=12ec93221bb99c1013bdb913cc4bcb32](https://usepa.servicenowservices.com/ecss?id=kb_article_view&sys_kb_id=12ec93221bb99c1013bdb913cc4bcb32) (last visited Feb. 9, 2022).

<sup>12</sup> EPA, *What is Superfund?*, [https://usepa.servicenowservices.com/ecss?id=kb\\_article\\_view&sys\\_kb\\_id=2e020af01b215410a5dced39bc4bcb98](https://usepa.servicenowservices.com/ecss?id=kb_article_view&sys_kb_id=2e020af01b215410a5dced39bc4bcb98) (last visited Feb. 9, 2022).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> EPA, *Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Federal Facilities*, <https://www.epa.gov/enforcement/comprehensive-environmental-response-compensation-and-liability-act-cercla-and-federal> (last visited Feb. 9, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See 40 C.F.R. pt. 312 (entitled "Innocent Landowners, Standards for Conducting All Appropriate Inquiries," also known as the "AAI Final Rule"); see also EPA, *Memorandum: Enforcement Discretion Guidance Regarding Statutory Criteria for Those Who May Qualify as CERCLA Bona Fide Prospective Purchasers, Contiguous Property Owners, or Innocent Landowners ("Common Elements")* (July 29, 2019), available at <https://www.epa.gov/sites/default/files/2019-08/documents/common-elements-guide-mem-2019.pdf> (last visited Feb. 9, 2022) (providing Common Elements guidance).

<sup>19</sup> EPA, *Lender Liability and Applicability of All Appropriate Inquiries*, available at [https://www.epa.gov/sites/default/files/2017-07/documents/aai\\_factsheet\\_lender\\_liability\\_epa\\_560\\_f\\_17\\_192\\_508.pdf](https://www.epa.gov/sites/default/files/2017-07/documents/aai_factsheet_lender_liability_epa_560_f_17_192_508.pdf) (last visited Feb. 9, 2022).

<sup>20</sup> *Id.*

professional.<sup>21</sup> These reports often take the form of a Phase I Environmental Site Assessment.<sup>22</sup> A Phase I Environmental Site Assessment uses existing information to help understand the property conditions by examining current and historical uses of the site and potential threats to human health or the environment. When a potential owner conducts an AAI in compliance with Title 40, Part 312 of the Code of Federal Regulations, he or she may have a defense to liability if contamination is later discovered.<sup>23</sup>

A Phase II Environmental Site Assessment is recommended if the Phase I Environmental Site Assessment results reveal known or potential contamination on the property.<sup>24</sup> In that event, an environmental professional develops a sampling plan to evaluate the potential presence of contamination from hazardous substances and petroleum on the property and determines the sources and exposures.<sup>25</sup> If the contamination found at the property exceeds risk thresholds for the proposed reuse, a cleanup plan may be necessary.<sup>26</sup>

### **Local Pollution Control Programs**

Section 403.182, F.S., provides that each county and municipality (or any combination thereof) may establish and administer a local pollution control program, so long as it complies with all other provisions of the Florida Air and Water Pollution Control Act (FAWPCA).<sup>27</sup> All local pollution control programs must:<sup>28</sup>

- Be approved by the Department of Environmental Protection (DEP) as adequate to meet the requirements of the FAWPCA and any applicable rules and regulations pursuant thereto;
- Provide by ordinance, regulation, or local law for requirements compatible with, or stricter or more extensive than those imposed by the FAWPCA and regulations issued thereunder;
- Provide for the enforcement of such requirements by appropriate administrative and judicial process; and
- Provide for administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program.

If DEP determines that a local pollution control program is inadequate to prevent and control pollution, or is being administered in a manner inconsistent with the requirements of the FAWPCA, it may require necessary corrective measures.<sup>29</sup> If these corrective measures are not implemented, DEP may reassume implementation of the FAWPCA within the jurisdiction.<sup>30</sup>

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<sup>21</sup> EPA, *All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content*, available at [https://www.epa.gov/sites/default/files/2015-05/documents/aa\\_i\\_reporting\\_factsheet.pdf](https://www.epa.gov/sites/default/files/2015-05/documents/aa_i_reporting_factsheet.pdf) (last visited Feb. 9, 2022).

<sup>22</sup> See EPA, *Assessing Brownfield Sites*, available at [https://www.epa.gov/sites/default/files/2020-07/documents/assessing\\_brownfield\\_sites.pdf](https://www.epa.gov/sites/default/files/2020-07/documents/assessing_brownfield_sites.pdf) (last visited Feb. 9, 2022) (explaining that performing a Phase I Environmental Site Assessment pursuant to ASTM International Standards E1527-13 prior to owning a property is often equivalent to conducting all appropriate inquiries).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Section 403.182, F.S.; see also ch. 67-436, s. 2, Laws of Fla. (identifying the short title of the act).

<sup>28</sup> Section 403.182(1), F.S.

<sup>29</sup> See s. 403.182(4), F.S.

<sup>30</sup> See *id.*

Each local pollution control program must cooperate with and assist DEP in carrying out its powers, duties, and functions.<sup>31</sup>

### **Site Assessment Guidance for Former Agricultural Sites in Miami-Dade County**

The Miami-Dade County (County) Division of Environmental Resources Management (DERM) implements monitoring, education, restoration, regulatory, and land management programs to protect water quality, drinking water supply, air quality and natural resources that are vital to the health and well-being of all County residents and visitors and the ecosystem.<sup>32</sup>

In August 2021, DERM issued a revised *Site Assessment Guidance for Former Agricultural Sites in Miami-Dade County, DERM Guidance 7G* (DERM Guidance).<sup>33</sup> The DERM Guidance revised earlier interim guidance on the same topic.<sup>34</sup> DERM states that the guidance was developed in response to requests to provide environmental professionals and practitioners clear guidance for evaluating potential environmental concerns at sites transitioning from a former bona fide agriculture land use (e.g. crops and orchards) to a nonagricultural land use, such as residential use.<sup>35</sup>

According to the DERM Guidance, the conversion of former agricultural lands into nonagricultural uses like residences and schools results in different exposed populations (e.g. expectant mothers, children, and construction workers), different exposure scenarios (e.g. increased exposure frequency and duration), and different exposure pathways.<sup>36</sup> Under these new scenarios, residual agrichemical concentrations in the environment may pose an unacceptable health risk to exposed populations and have the potential to cause a nuisance, ground pollution, or water pollution as defined in the Miami-Dade County Code.<sup>37</sup>

To address these concerns, the DERM Guidance requires “testing/proper assessment and, if necessary, risk mitigation to ensure the protection of public health, safety, and welfare.”<sup>38</sup> It addresses areas historically utilized for growing agricultural crops and provides minimum requirements to characterize the site’s environmental conditions resulting from agricultural activities at the site. DERM notes that based upon changes in types of crops grown,

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<sup>31</sup> Section 403.182(10), F.S.

<sup>32</sup> DERM, *Environment*, <https://www.miamidade.gov/environment/> (last visited Feb. 9, 2022).

<sup>33</sup> DERM, *Site Assessment Guidance for Former Agricultural Sites in Miami-Dade County, DERM Guidance 7G*, available at <https://www.miamidade.gov/resources/legal-ads/2021-08-interim-guidance-assessment-at-former-agricultural-sites.pdf> (last visited Feb. 9, 2022).

<sup>34</sup> DERM, *Interim Site Assessment Guidance for Developing at Former Agricultural Sites*, <https://www.miamidade.gov/environment/research-reports.asp#0> (last visited Feb. 9, 2022). The Dade County Farm Bureau opposed the interim guidance, asserting (among other things) that it unfairly targeted agricultural lands, assumed without evidence that they are polluted, and imposed on them heavy-handed environmental testing protocols. See *Landowners Urged to Fight Back against Miami-Dade County DERM*, SOUTH DADE NEWSLEADER, Nov. 13, 2020, [http://www.southdadenewsleader.com/news/landowners-urged-to-fight-back-against-miami-dade-county-derm/article\\_bac6b9f8-253c-11eb-915f-cf89a59e3111.html](http://www.southdadenewsleader.com/news/landowners-urged-to-fight-back-against-miami-dade-county-derm/article_bac6b9f8-253c-11eb-915f-cf89a59e3111.html) (last visited Feb. 9, 2022).

<sup>35</sup> *Id.*

<sup>36</sup> DERM, *Site Assessment Guidance for Former Agricultural Sites in Miami-Dade County, DERM Guidance 7G*, available at <https://www.miamidade.gov/resources/legal-ads/2021-08-interim-guidance-assessment-at-former-agricultural-sites.pdf> (last visited Feb. 9, 2022).

<sup>37</sup> *Id.* at 1.

<sup>38</sup> *Id.*



**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill may increase costs to DEP because it is assuming exclusive jurisdiction in setting standards or procedures for evaluating environmental conditions and assessing potential liability for the presence of contaminants on land that is classified as agricultural land pursuant to state law and being converted to a nonagricultural use. In contrast, local governments may experience a decrease in costs associated with setting such standards or procedures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 403.182 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Environment and Natural Resources on February 7, 2022**

- Narrows the scope of the underlying bill to the following:
  - Provides that the Secretary of the Department of Environmental Protection has exclusive jurisdiction from “all matters related to” (in the underlying bill) evaluating environmental conditions and assessing potential liability for the presence of contaminants, to “setting standards or procedures” for same.
  - Modifies the scope of the evaluation and assessment, from land that is or was classified as agricultural land, to land that is classified as agricultural land and is being converted to a nonagricultural use.
  - Clarifies that the secretary’s exclusive jurisdiction includes defining what constitutes all appropriate inquiry consistent with federal law and guidance.
  - Clarifies that the secretary may not delegate this authority to set standards or procedures to a county, a municipality, or another unit of local government through a local pollution control program for land that is classified as agricultural under state law and being converted to nonagricultural use.
  - Provides that the bill does not preempt the enforcement authority of a county, a municipality, or another unit of local government through a local pollution control program.
  - Provides that the bill does not apply to former agricultural land for which a permit has been approved by a local government to initiate development or for which development was completed on or before July 1, 2022.

**B. Amendments:**

None.

**By** the Committee on Environment and Natural Resources; and  
Senator Albritton

592-02786-22

20221210c1

1                   A bill to be entitled  
2           An act relating to pollution control standards and  
3           liability; amending s. 403.182, F.S.; providing that  
4           the Secretary of Environmental Protection has  
5           exclusive jurisdiction in setting standards or  
6           procedures for evaluating environmental conditions and  
7           assessing potential liability for the presence of  
8           contaminants on certain agricultural lands;  
9           prohibiting the secretary from delegating such  
10          authority to a local governmental entity; providing  
11          construction and applicability; providing an effective  
12          date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. Subsection (11) is added to section 403.182,  
17 Florida Statutes, to read:

18           403.182 Local pollution control programs.—

19           (11) (a) Notwithstanding this section or any existing local  
20 pollution control programs, the Secretary of Environmental  
21 Protection has exclusive jurisdiction in setting standards or  
22 procedures for evaluating environmental conditions and assessing  
23 potential liability for the presence of contaminants on land  
24 that is classified as agricultural land pursuant to s. 193.461  
25 and being converted to a nonagricultural use. The exclusive  
26 jurisdiction includes defining what constitutes all appropriate  
27 inquiry consistent with 40 C.F.R. part 312 and guidance  
28 thereunder.

29           (b) The secretary may not delegate the authority to set

592-02786-22

20221210c1

30 standards or procedures for evaluating environmental conditions  
31 and assessing potential liability under paragraph (a) to a  
32 county, a municipality, or another unit of local government  
33 through a local pollution control program under this section.  
34 This subsection does not preempt the enforcement authority of a  
35 county, a municipality, or another unit of local government  
36 through a local pollution control program under this section.

37 (c) This subsection does not apply to former agricultural  
38 land for which a permit has been approved by a local government  
39 to initiate development or for which development was completed  
40 on or before July 1, 2022.

41 Section 2. This act shall take effect July 1, 2022.

# CourtSmart Tag Report

Room: SB 110 Case No.:  
Caption: Senate Agriculture Committee

Type:  
Judge:

Started: 2/10/2022 8:31:36 AM  
Ends: 2/10/2022 8:53:21 AM Length: 00:21:46

8:31:35 AM Call to order  
8:31:38 AM Roll Call  
8:31:43 AM Quorum present  
8:31:54 AM Chair Rouson opening comments  
8:32:38 AM SB 448 will not be heard as it was not received  
8:32:49 AM Take up Tab 4 - SB 1210 - Development of Current/Former AG Land  
8:33:10 AM Senator Albritton for explanation  
8:33:49 AM Questions?  
8:33:54 AM Appearance Cards  
8:33:58 AM None  
8:34:02 AM Debate?  
8:34:07 AM Senator Albritton to close  
8:34:19 AM Roll call  
8:34:24 AM SB 1210 is reported favorably  
8:34:43 AM Take up Tab 1 SB 404 of Aquaculture Land Valuation  
8:35:05 AM Senator Rodriguez for explanation  
8:35:29 AM Take up amendment 665976  
8:36:01 AM Senator Rodriguez for explanation  
8:36:13 AM Questions?  
8:36:25 AM Take up Amendment to amendment 547428  
8:36:52 AM Senator Rodriguez  
8:37:00 AM Show the AA to amendment adopted  
8:37:14 AM On the bill as amended  
8:37:18 AM Appearance cards  
8:37:36 AM Robby Holroyd waives in support  
8:37:45 AM Ellen Bogdanoff waives in support  
8:38:07 AM Debate?  
8:38:42 AM Senator Rodriguez waives close  
8:38:42 AM No Debate  
8:38:51 AM Roll call  
8:38:56 AM CS/SB 404 is reported favorably  
8:39:36 AM Recording Paused  
8:45:40 AM Recording Resumed  
8:45:55 AM Take up Tab 2 - Dangerous Dogs  
8:46:57 AM Senator Garcia for an explanation  
8:47:06 AM Questions?  
8:47:34 AM Senator Rouson for a question  
8:48:16 AM Follow up  
8:48:44 AM Senator Garcia for response  
8:49:30 AM Appearance Cards  
8:49:39 AM Denise Lasher waives in support  
8:49:48 AM Kate MacFall waives in support

**8:50:02 AM** Travis Moore waives in support  
**8:50:11 AM** Debate?  
**8:50:14 AM** Senator Bradley in debate  
**8:50:48 AM** Senator Garcia to close  
**8:50:59 AM** Roll Call  
**8:51:15 AM** SB 614 is reported favorably  
**8:51:43 AM** Closing comments by the Chair  
**8:52:34 AM** Senator Boyd for comments  
**8:53:00 AM** Senator Ausley moves to adjourn  
**8:53:12 AM** We are adjourned

NOT RECEIVED

The Florida Senate

APPEARANCE RECORD

2/10/22

Meeting Date

448

Bill Number or Topic

Agriculture

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

America's Code Book code (if applicable)

Name Phillip Suderman

Phone

Address Street

Email

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for Prosperity

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)