

CHAPTER 602

CITRUS CANKER DISEASE

- 602.015 Definitions.
- 602.025 Legislative findings and intent.
- 602.035 Schedule of compensation.
- 602.055 Office of Citrus Canker Claims established; duties.
- 602.065 Citrus canker claims; procedures.
- 602.075 Attorney's fees.
- 602.085 Venue for administrative proceedings.
- 602.095 Application of act; filing deadline.
- 602.097 Court action; effect.
- 602.099 Notification upon immediate final order.

602.015 Definitions.—As used in this act:

(1) "Citrus canker" means a bacterial disease of citrus incited by the organism *Xanthomonas campestris pathovar citri* and includes what is commonly known as the nursery strain of citrus canker or citrus bacterial spot.

(2) "Citrus tree destruction report" means any of the various documents issued by the Department of Agriculture and Consumer Services or the United States Department of Agriculture, or both, to record and verify citrus plants destroyed due to infestation by or exposure to the nursery strain of citrus canker and known by the titles:

(a) Grove Exposed Reset Destruction Report.

(b) Nursery/Stock Dealer/Agent Tree Destruction Report.

(c) Citrus Canker: Nursery Tree Destruction Final Report.

(d) Grove Tree Destruction Report.

(e) Retail Outlet—Tree Destruction Report.

(3) "Claimant" means a person who owned citrus nursery plants which were destroyed by employees or agents of either the Department of Agriculture and Consumer Services or the United States Department of Agriculture, or both:

(a) Pursuant to an immediate final order, but does not include a person who destroyed citrus nursery plants without an immediate final order; or

(b) Who purchased citrus nursery plants from a positive source citrus nursery and who possesses a sales invoice or other supporting documentation of purchase and for which a citrus tree destruction report was issued.

(4) "Immediate final order" means an administrative order issued by the Department of Agriculture and Consumer Services or the United States Department of Agriculture, or both, by which citrus nursery plants were ordered destroyed pursuant to federal and state law due to infestation by or exposure to the nursery strain of citrus canker.

History.—s. 1, ch. 89-91; s. 1, ch. 89-542.

602.025 Legislative findings and intent.—

(1) The Legislature finds that:

(a) The destruction of citrus nursery plants by the Department of Agriculture and Consumer Services in order to eradicate citrus canker was a valid exercise of the state's police power.

(b) The Florida Supreme Court has determined that the state's action in destroying healthy, but suspect citrus nursery plants amounted to a taking which requires full and just compensation to be paid by the state to the owners of such plants.

(c) The Department of Agriculture and Consumer Services acted properly in dealing with the 1984 outbreak of citrus canker disease.

(d) State and federal scientists diagnosed the disease as citrus canker (*Xanthomonas campestris pathovar citri*), but stated that it was different from known strains of citrus canker.

(e) Subsequent scientific findings have shown that the disease which was discovered in Ward's nursery in 1984 was a previously unknown strain of citrus canker.

(f) The Department of Agriculture and Consumer Services responded to the discovery of the citrus canker disease using the best scientific knowledge available at the time and in accordance with the federal Citrus Canker Disease Action Plan, which had been formulated by the Federal Government and citrus-producing states to deal with citrus canker outbreaks.

(g) The Citrus Canker Eradication Program was a joint federal-state project for the purpose of eradicating citrus canker, in which both the state and federal governments participated until March 31, 1986, when the Federal Government withdrew due to inadequate funding. During the Federal Government's participation in the program, citrus nursery plants were destroyed pursuant to both federal and state law, federal scientists assisted in diagnosing specimen samples, federal employees assisted in all aspects of the eradication program, and federal funds were provided to affected citrus nursery plant owners.

(h) At all times material to this matter, Florida law provided the Department of Agriculture and Consumer Services with authority to destroy plants infected with or exposed to a disease (s. 581.031, Florida Statutes (1983)).

(i) The Secretary of the United States Department of Agriculture, on October 16, 1984, pursuant to s. 150dd(b)(1) of the Federal Plant Pest Act, as amended, declared an extraordinary emergency in the State of Florida because of citrus canker.

(j) Financial assistance payments have been made to citrus nursery plant owners which total approximately \$16.1 million, the Federal Government having paid an estimated \$10.5 million and the state having paid \$5.6 million. Overall, the state has spent \$24.3 million and the Federal Government has spent approximately \$13.2 million on the Citrus Canker Eradication Program.

(k) The Florida Supreme Court decision in *Department of Agriculture and Consumer Services v. Mid-Florida Growers, Inc.*, 521 So. 2d 101 (Fla. 1988), has placed the state in a difficult financial and regulatory position with respect to future disease and pest eradication programs.

(l) The Florida Legislature is vested with the sole constitutional authority to appropriate money for specific purposes.

(m) The potential exists for disruption of the legislatively prescribed plan for the expenditure of public funds which would adversely affect the important functions of government.

(n) Because of various delays in the implementation of the claims process, some claims have not yet been paid.

(o) Some of the taxes that came due from 1989 to date have not yet been collected, and the department needs authority to continue collecting these past due taxes after June 30, 1993.

(2) It is the intent of the Legislature, through the adoption of this act, to:

(a) Apply this act to all claimants, including, but not limited to, those who have filed lawsuits prior to June 20, 1989, involving compensation for destruction of citrus nursery plants as a result of the Citrus Canker Eradication Program begun in 1984, except those in which there is a final order as to damages, attorney's fees, or costs, from which no appeal has been taken.

(b) Provide a procedure which shall be the sole and exclusive remedy and procedure to compensate those claimants whose citrus nursery plants were destroyed under the Citrus Canker Eradication Program and which shall be in place of all liability of the state, its departments, and all other instrumentalities of the state.

(c) Establish a presumptive compensation value for the categories of citrus nursery plants designated by the Citrus Canker Indemnity Group.

(d) Provide that money shall only be paid to a claimant for citrus nursery plants that were destroyed as a result of being exposed to, or infected or infested with, the disease commonly known as the nursery strain of citrus canker or citrus bacterial spot. Payments may not be made for claims of destruction of citrus nursery plants infested with or exposed to citrus canker strain A.

(e) Compensate during fiscal year 1990-1991 those claimants whose judicial remedies are barred by the statute of limitations as of June 20, 1989, for the amount computed by the Office of Citrus Canker Claims using the procedure in s. 602.065. Such payments shall not include interest, and such claimants shall not be entitled to proceed before a hearing officer. This paragraph shall not be construed to constitute a waiver of the limitation on actions as set forth in chapter 95.

(f) When the Attorney General determines, after consultation with the Comptroller, that the duties and responsibilities of the Department of Legal Affairs under this chapter have been concluded, the Attorney General shall notify the Comptroller. After issuing the notice, the Department of Legal Affairs shall have 30 days in which to archive its files and otherwise complete its affairs relating to this chapter. Thereafter, no additional funds shall be transferred to the Legal Services Trust Fund and all unexpended and unencumbered funds originally transferred from the Citrus Canker Compensation Trust Fund shall be immediately transferred from the Legal Services Trust Fund to the Citrus Canker Compensation Trust Fund in the Department of Banking and Finance.

(3) After receiving notice from the Attorney General that the Department of Legal Affairs has completed duties and responsibilities under this chapter, the

Comptroller shall determine whether there has been a final disposition of all claims filed pursuant to this chapter. When the Comptroller determines that all claims, except those provided for in s. 602.055(6), filed pursuant to this chapter have reached a final disposition, the Comptroller shall notify the Attorney General, the Commissioner of Agriculture, the director of the Division of Administrative Hearings, and the Auditor General that the Citrus Canker Compensation Program has been completed. The Auditor General shall conduct a financial audit of the funding and expenditure for the Citrus Canker Compensation Program established by chapter 89-91, Laws of Florida, the Citrus Canker Eradication Program beginning July 1, 1989, and continued through the date of the audit, and payment of all claims arising out of the Citrus Canker Eradication Program not covered by this chapter to determine if the percentage funding formula enacted by the Legislature has been met. By January 15, 1994, the results of the audit shall be reported to the Legislature, which shall thereafter determine the amounts to be refunded to the appropriate trust fund; however, the Auditor General shall begin the audit immediately without waiting for all final payments to be made.

(4) Following the completion of the financial audit by the Auditor General, the Legislature shall determine whether general revenue appropriated beginning July 1, 1989, and any taxes collected pursuant to chapters 89-91, 89-542, 90-326, 91-4, 91-75, 92-140, and 93-52, Laws of Florida, were in excess of the amount necessary to fund the Citrus Canker Compensation Program or the Citrus Canker Eradication Program pursuant to the funding formula provided in s. 8, chapter 92-140, Laws of Florida. If the Legislature determines that an excess of funds was appropriated from general revenue or excess taxes were collected pursuant to chapters 89-91, 89-542, 90-326, 91-4, 91-75, 92-140, and 93-52, Laws of Florida, such excesses shall be appropriated for transfer to the General Revenue Fund and the Citrus Advertising Trust Fund, respectively.

History.—s. 2, ch. 89-91; s. 2, ch. 89-542; s. 7, ch. 91-75; s. 4, ch. 92-140; s. 1, ch. 93-52, s. 8, ch. 94-346.

Note.—Terminated by s. 6, ch. 94-346.

602.035 Schedule of compensation.—The categories of citrus nursery plants set out below were established by the Citrus Canker Indemnity Group. The definitions and descriptions in the 1984 report of the Citrus Canker Indemnity Group shall apply to the categories in this act. The tree survival factors represent the average percentage of original planted trees reaching sale after allowances for culling or death.

(1) The Legislature establishes the following values to provide presumptive full and fair compensation for the citrus nursery plants destroyed in the Citrus Canker Eradication Program as a result of the nursery strain of citrus canker:

(a) Field grown seedling.....	\$0.155
(b) Field grown liner.....	\$0.277
(c) Greenhouse seedling.....	\$0.234
(d) Greenhouse liner.....	\$0.532
(e) One-gallon container.....	\$2.999
(f) Two-gallon container.....	\$3.90
(g) Three-gallon container.....	\$5.90

(h) Reset\$7.48
 (i) The presumptive value for a field grown budded plant shall be determined from the following table by the intersection of the row indicating the month and year during which the plants were destroyed and the column indicating the number of months that had elapsed between the date on which the plants were budded and the date of destruction.

Burn Date	Months Elapsed Since Budding					
	0- 3	4- 6	7- 9	10-12	13-15	16 or more
Jun 84	1.208	1.602	1.997	2.391	2.786	3.180
Jul 84	1.212	1.608	2.004	2.400	2.796	3.192
Aug 84	1.216	1.613	2.010	2.407	2.804	3.201
Sep 84	1.219	1.617	2.016	2.414	2.812	3.211
Oct 84	1.224	1.624	2.023	2.423	2.823	3.223
Nov 84	1.226	1.627	2.027	2.428	2.828	3.229
Dec 84	1.228	1.630	2.031	2.433	2.834	3.235
Jan 85	1.231	1.633	2.035	2.437	2.839	3.241
Feb 85	1.237	1.641	2.045	2.449	2.853	3.257
Mar 85	1.242	1.648	2.054	2.460	2.866	3.272
Apr 85	1.247	1.655	2.062	2.469	2.877	3.284
May 85	1.249	1.658	2.066	2.474	2.882	3.290
Jun 85	1.253	1.662	2.072	2.481	2.890	3.300
Jul 85	1.255	1.665	2.075	2.486	2.896	3.306
Aug 85	1.256	1.667	2.077	2.488	2.898	3.309
Sep 85	1.259	1.670	2.081	2.492	2.904	3.315
Oct 85	1.263	1.676	2.089	2.502	2.914	3.327
Nov 85	1.270	1.685	2.100	2.516	2.931	3.346
Dec 85	1.275	1.692	2.108	2.525	2.941	3.358
Jan 86	1.280	1.698	2.116	2.534	2.952	3.370
Feb 86	1.276	1.693	2.110	2.527	2.944	3.361
Mar 86	1.270	1.685	2.100	2.516	2.931	3.346
Apr 86	1.267	1.681	2.095	2.509	2.922	3.336
May 86	1.269	1.684	2.099	2.513	2.928	3.343
Jun 86	1.274	1.690	2.106	2.522	2.939	3.355
Jul 86	1.275	1.692	2.108	2.525	2.941	3.358
Aug 86	1.276	1.693	2.110	2.527	2.944	3.361
Sep 86	1.281	1.699	2.118	2.536	2.955	3.373
Oct 86	1.283	1.702	2.122	2.541	2.960	3.379
Nov 86	1.287	1.707	2.127	2.548	2.968	3.389
Dec 86	1.289	1.710	2.131	2.552	2.974	3.395
Jan 87	1.298	1.722	2.147	2.571	2.995	3.419
Feb 87	1.303	1.729	2.154	2.580	3.006	3.431
Mar 87	1.309	1.736	2.164	2.592	3.019	3.447
Apr 87	1.315	1.744	2.174	2.603	3.033	3.462
May 87	1.319	1.750	2.181	2.612	3.043	3.474
Jun 87	1.323	1.755	2.187	2.619	3.051	3.484
Jul 87	1.326	1.760	2.193	2.626	3.059	3.493
Aug 87	1.332	1.767	2.203	2.638	3.073	3.508
Sep 87	1.334	1.770	2.206	2.642	3.078	3.514
Oct 87	1.339	1.777	2.214	2.652	3.089	3.527
Nov 87	1.344	1.783	2.222	2.661	3.100	3.539
Dec 87	1.346	1.786	2.226	2.665	3.105	3.545
Jan 88	1.352	1.794	2.235	2.677	3.119	3.560
Feb 88	1.354	1.797	2.239	2.682	3.124	3.566
Mar 88	1.359	1.803	2.247	2.691	3.135	3.579
Apr 88	1.365	1.811	2.256	2.702	3.148	3.594

Burn Date	Months Elapsed Since Budding					
	0- 3	4- 6	7- 9	10-12	13-15	16 or more
May 88	1.371	1.818	2.266	2.714	3.162	3.609
Jun 88	1.375	1.824	2.274	2.723	3.172	3.622
Jul 88	1.381	1.832	2.283	2.735	3.186	3.637
Aug 88	1.386	1.838	2.291	2.744	3.196	3.649
Sep 88	1.391	1.846	2.301	2.755	3.210	3.665
Oct 88	1.397	1.854	2.310	2.767	3.223	3.680
Nov 88	1.401	1.858	2.316	2.774	3.231	3.689
Dec 88	1.405	1.865	2.324	2.783	3.242	3.701

(j) The presumptive value for a greenhouse budded plant shall be determined from the following table by the intersection of the row indicating the month and year during which the plants were destroyed and the column indicating the number of months that had elapsed between the date on which the plants were budded and the date of destruction.

Burn Date	Months Elapsed Since Budding			
	0- 3	4- 6	7- 9	10 or more
Jun 84	1.904	2.722	3.541	3.814
Jul 84	1.911	2.733	3.555	3.829
Aug 84	1.917	2.741	3.565	3.840
Sep 84	1.922	2.749	3.575	3.851
Oct 84	1.929	2.759	3.589	3.865
Nov 84	1.933	2.764	3.596	3.873
Dec 84	1.937	2.770	3.603	3.880
Jan 85	1.940	2.775	3.609	3.888
Feb 85	1.950	2.788	3.626	3.906
Mar 85	1.959	2.801	3.644	3.924
Apr 85	1.966	2.812	3.657	3.939
May 85	1.970	2.817	3.664	3.946
Jun 85	1.975	2.825	3.674	3.957
Jul 85	1.979	2.830	3.681	3.965
Aug 85	1.981	2.833	3.685	3.968
Sep 85	1.984	2.838	3.691	3.976
Oct 85	1.992	2.848	3.705	3.991
Nov 85	2.003	2.864	3.725	4.013
Dec 85	2.010	2.875	3.739	4.027
Jan 86	2.018	2.885	3.753	4.042
Feb 86	2.012	2.877	3.743	4.031
Mar 86	2.003	2.864	3.725	4.013
Apr 86	1.997	2.856	3.715	4.002
May 86	2.001	2.862	3.722	4.009
Jun 86	2.008	2.872	3.736	4.024
Jul 86	2.010	2.875	3.739	4.027
Aug 86	2.012	2.877	3.743	4.031
Sep 86	2.019	2.888	3.756	4.046
Oct 86	2.023	2.893	3.763	4.053
Nov 86	2.029	2.901	3.773	4.064
Dec 86	2.032	2.906	3.780	4.071
Jan 87	2.047	2.927	3.807	4.101
Feb 87	2.054	2.938	3.821	4.116
Mar 87	2.063	2.951	3.838	4.134
Apr 87	2.073	2.964	3.855	4.152

Greenhouse Budded Plant Value Table
(in Dollars)

Burn Date	Months Elapsed Since Budding			
	0- 3	4- 6	7- 9	10 or more
May 87	2.080	2.974	3.869	4.167
Jun 87	2.085	2.982	3.879	4.178
Jul 87	2.091	2.990	3.889	4.189
Aug 87	2.100	3.003	3.906	4.208
Sep 87	2.104	3.009	3.913	4.215
Oct 87	2.111	3.019	3.927	4.230
Nov 87	2.118	3.030	3.941	4.244
Dec 87	2.122	3.035	3.947	4.252
Jan 88	2.131	3.048	3.965	4.270
Feb 88	2.135	3.053	3.971	4.277
Mar 88	2.142	3.064	3.985	4.292
Apr 88	2.152	3.077	4.002	4.311
May 88	2.161	3.090	4.019	4.329
Jun 88	2.168	3.100	4.033	4.344
Jul 88	2.177	3.114	4.050	4.362
Aug 88	2.185	3.124	4.064	4.377
Sep 88	2.194	3.137	4.081	4.395
Oct 88	2.203	3.150	4.098	4.414
Nov 88	2.208	3.158	4.108	4.425
Dec 88	2.216	3.169	4.122	4.439

(2) The presumptive level of compensation shall be determined by multiplying the number of plants in each of the categories listed in subsection (1) that were destroyed by the average tree survival factors listed below for the appropriate type of plant, and multiplying the resulting product by the corresponding presumptive values listed in subsection (1). The following tree survival factors shall be used in establishing the presumptive level of compensation pursuant to this subsection:

- (a) Field grown seedling.....0.683
- (b) Field grown liner.....0.93
- (c) Greenhouse seedling.....0.62
- (d) Greenhouse liner.....0.97
- (e) One-gallon container.....1.0
- (f) Two-gallon container.....1.0
- (g) Three-gallon container.....1.0
- (h) Reset.....1.0
- (i) Field grown budded.....0.836
- (j) Greenhouse budded.....0.783

(3) The presumptive values used in subsection (1) were arrived at in the following manner:

(a) The presumptive value for a field grown seedling was arrived at by calculating the arithmetic mean of 1984 prices reported for field grown seedlings in a survey of citrus nurseries conducted by the Citrus Research and Education Center at the Institute of Food and Agricultural Sciences at the University of Florida.

(b) The presumptive value for a field grown liner was taken from the 1984 report of the Citrus Canker Indemnity Group.

(c) The presumptive value for a greenhouse seedling was arrived at by calculating the arithmetic mean of 1984 prices reported for greenhouse seedlings in a survey of citrus nurseries conducted by the Citrus Research and Education Center at the Institute of Food and Agricultural Sciences at the University of Florida.

(d) The presumptive value for a greenhouse liner was taken from the 1984 report of the Citrus Canker Indemnity Group.

(e) The presumptive value for a 1-gallon container was arrived at by multiplying the presumptive value for a 2-gallon container by the ratio of the production value of a 1-gallon container to the production value of a 2-gallon container as reported in the 1984 report of the Citrus Canker Indemnity Group.

(f) The presumptive value for a 2-gallon container was arrived at by taking the mode of prices charged for 2-gallon containers as reported in invoices for 1984 sales provided by the Department of Citrus.

(g) The presumptive value for a 3-gallon container was arrived at by taking the mode of prices charged for 3-gallon containers as reported in invoices for 1984 sales provided by the Department of Citrus.

(h) The presumptive value for a reset was taken from the 1984 report of the Citrus Canker Indemnity Group.

(i) The table of presumptive values for field grown budded plants was constructed in the following manner:

1. The 1984 value of a newly budded plant was assigned a value of \$0.813 based on the production cost of a newly budded field grown liner as reported by the 1984 report of the Citrus Canker Indemnity Group.

2. The 1984 value of a field grown budded plant that was ready to market was assigned a value of \$3.18 based on the weighted mean of sales prices of field grown budded plants, less \$0.10 per plant for digging and dipping costs not incurred for destroyed plants, as reported on sales invoices which were provided by the Department of Citrus.

3. The difference between the 1984 production cost of a newly budded liner and the 1984 value of a marketable plant was divided equally among the 18 months typically required to grow a newly budded liner to marketable size as reported in the 1984 report of the Citrus Canker Indemnity Group. The incremental cost for each month was added to the production cost of a newly budded liner to arrive at the value of a field grown budded plant for each month after budding. These values were designated as the June 1984 values on the table of field grown budded plant values.

4. The values of plants destroyed in months subsequent to June 1984 were arrived at by adjusting the June 1984 figures for changes in the price level using the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor.

5. The number of columns in the table were then combined in the following manner: the month of budding and the 1st, 2nd, and 3rd months after budding were combined and the plant value for the 3rd month after budding was used as the presumptive plant value for purposes of subsection (1); the 4th, 5th, and 6th month after budding were combined and the plant value for the 6th month after budding was used as the presumptive plant value for purposes of subsection (1); the 7th, 8th, and 9th months were combined and the plant value for the 9th month after budding was used as the presumptive plant value for purposes of subsection (1); the 10th, 11th, and 12th months were combined and the plant value for the 12th month after budding was used as the presumptive plant value for purposes of subsection (1);

the 13th, 14th, and 15th months were combined and the plant value for the 15th month after budding was used as the presumptive plant value for purposes of subsection (1); the 16th, 17th, and 18th months were combined and the plant value for the 18th month after budding was used as the presumptive plant value for purposes of subsection (1).

(j) The table of presumptive values for greenhouse budded plants was constructed in the following manner:

1. The 1984 value of a newly budded plant was assigned a value of \$1.085 based on the production cost of a newly budded greenhouse liner as reported by the 1984 report of the Citrus Canker Indemnity Group.

2. The 1984 value of a greenhouse budded plant that was ready to market is \$3,814, which was arrived at by multiplying the 1984 value for a fully grown field grown budded plant by the ratio of the production cost of a greenhouse budded plant to the production cost of a field grown budded plant as reported in the 1984 report of the Citrus Canker Indemnity Group.

3. The difference between the 1984 production cost of a newly budded liner and the 1984 value of a marketable plant was divided equally among the 10 months typically required to grow a newly budded liner to marketable size as reported in the 1984 report of the Citrus Canker Indemnity Group. The incremental cost for each month was added to the production cost of a newly budded liner to arrive at the value of a greenhouse budded plant for each month after budding. These values were designated as the June 1984 values on the table of greenhouse budded plant values.

4. The values of plants destroyed in months subsequent to June 1984 were arrived at by adjusting the June 1984 figures for changes in the price level using the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor.

5. The number of columns in the table were then combined in the following manner: the month of budding and the 1st, 2nd, and 3rd months after budding were combined and the plant value for the 3rd month after budding was used as the presumptive plant value for purposes of subsection (1); the 4th, 5th, and 6th month after budding were combined and the plant value for the 6th month after budding was used as the presumptive plant value for purposes of subsection (1); the 7th, 8th, and 9th months were combined and the plant value for the 9th month after budding was used as the presumptive plant value for purposes of subsection (1).

(4) The average tree survival factors used in this section were taken from staff paper number 281 published in June 1985 by the Food and Resource Economic Department of the Institute of Food and Agricultural Sciences at the University of Florida.

History.—s. 3, ch. 89-91; s. 3, ch. 89-542.

602.055 Office of Citrus Canker Claims established; duties.—

(1) There is hereby created the Office of Citrus Canker Claims within the Department of Banking and Finance. It shall be the duty of the Office of Citrus Canker Claims to notify claimants pursuant to s. 602.065 and to accept applications for claims for awards pursuant to this act.

(2) No money shall be paid to a claimant by the Office of Citrus Canker Claims unless and until:

(a) The claimant has signed an unqualified release of all claims for compensation and reimbursement of costs and expenses, including attorney's fees, of any type, including any and all constitutional claims, or relief of any other kind, resulting from the Citrus Canker Eradication Program;

(b) The claimant has signed an unqualified release of all claims for compensation and reimbursement for all citrus plants destroyed, including any and all constitutional claims, or relief of any other kind, resulting from the Citrus Canker Eradication Program, except the claimant's attorney's fees and costs which shall require a separate unconditional release by the claimant. This paragraph shall be applicable only upon a determination by the Office of Citrus Canker Claims and the Department of Legal Affairs that it is in the best interest of the state to settle the claimant's attorney's fees and costs independently of the claim for compensation for citrus plants destroyed; or

(c) A final order has been entered by the hearing officer in an administrative hearing as described in s. 602.065 and/or s. 602.075 and the time for appeal has expired or all appellate proceedings have been concluded.

(3) Each release required under this section shall be returned to the Office of Citrus Canker Claims by registered mail within 10 days of receipt of the release form by the claimant. Failure to return the release to the Office of Citrus Canker Claims within 10 days shall result in the suspension of the amount of interest due on the claim from the day on which the release was received by the claimant until such time as the unqualified release is properly executed and received by the Office of Citrus Canker Claims. The Office of Citrus Canker Claims, in consultation with the Department of Legal Affairs, may waive this subsection upon good cause shown by the claimant in writing as to why the release was not timely filed.

(4) The Office of Citrus Canker Claims in consultation with the Department of Legal Affairs may, at any point in the claims process, compromise or settle any claim when such compromise or settlement is deemed to be in the best interest of the state.

(5) The Office of Citrus Canker Claims shall design an application and other forms to administer this act, which application and forms shall not be subject to chapter 120. The application and other forms shall be designed to:

(a) Provide information on the number and category of citrus nursery plants for which a claimant is making a claim.

(b) Provide a place where the claimant may indicate that he disputes values established by s. 602.035 or the number and category of citrus nursery plants in the records of the Department of Agriculture and Consumer Services and requests a hearing before a hearing officer from the Division of Administrative Hearings. The form shall clearly indicate that where a claimant proceeds before a hearing officer the state is entitled to present evidence that in the claimant's particular case the values established in s. 602.035 exceed the fair market value of the claimant's losses.

(c) Provide a place for the claimant's explanation of why he disagrees with the information provided by the records of the Department of Agriculture and Consumer Services.

(d) Notify the claimant that payment of the claim as set forth above will be conditioned upon the execution of the release required in subsection (2).

(e) Provide a space for the claimant to indicate the amount of money already paid to the claimant by the state or Federal Government for destroyed citrus nursery plants and the date each such payment was received.

(6) All claimants shall have until midnight of June 30, 1993, to file the release required by this section. Any release postmarked after that time shall be void, and no claim shall be paid. All payments on the claims shall be completed by August 2, 1993. Such payments may be made in accordance with s. 602.025(2)(e), to the extent that funds are appropriated for that purpose.

History.—s. 5, ch. 89-91; s. 1, ch. 90-326; s. 1, ch. 91-4; s. 4, ch. 91-75; s. 2, ch. 93-52.

602.065 Citrus canker claims; procedures.—

(1) The Office of Citrus Canker Claims shall take reasonable steps to identify and notify claimants whose citrus nursery plants were destroyed under the Citrus Canker Eradication Program of the existence of the Office of Citrus Canker Claims and the availability of compensation. The notification shall indicate the manner in which the claimant may request an application form requesting compensation.

(2)(a) For all claimants whose claims arose prior to June 20, 1989, notification required in subsection (1) shall be sent by registered mail to each claimant at the address provided in the immediate final order. In addition, notification for the purpose of s. 602.095(2) shall be deemed to have been made upon publication of a general notice to all such claimants in a newspaper of general circulation during each week for 2 consecutive weeks in those counties in which citrus nursery plants were destroyed.

(b) For all claimants whose claims arise on or after June 20, 1989, notification required in subsection (1) for the purpose of s. 602.095(2) shall be deemed to have been made when such notification is sent by registered mail to each claimant at the address provided in the immediate final order or in the citrus tree destruction report.

(3) The claimant shall indicate on the application the number of citrus nursery plants destroyed in each category.

(4) The claimant shall disclose on the application any money already received from the state or Federal Government, or both, for citrus nursery plants destroyed pursuant to the Citrus Canker Eradication Program and the date each such payment was received.

(5) Upon receipt of the application from the claimant, the Office of Citrus Canker Claims shall compare the information provided by the claimant with the records of the Department of Agriculture and Consumer Services. If the claimant's information is in accordance with the department's records, the Office of Citrus Canker Claims shall calculate the amount due to the claimant. Such calculations shall be done as follows:

(a) The base level of compensation shall be calculated as set forth in s. 602.035(2).

(b) If a claimant's judicial remedies are not barred by the statute of limitations as of June 20, 1989, then interest, as provided in s. 55.03, shall be added to the base level of compensation according to the following schedule:

1. On the base level of compensation from the date of destruction until the date of the first payment, if any.

2. On the difference between the base level of compensation and the first payment from the date of the first payment until the date of the second payment, if any.

3. On the difference between the base level of compensation and the sum of the first and second payments from the date of the second payment until the date of the third payment, if any.

4. On the difference between the base level of compensation and the sum of all prior payments, if any, between the date of the last payment and the date on which final compensation is made pursuant to this act.

(c) The sum of all compensation payments previously made by the state and federal governments shall be deducted from the sum of the base level of compensation and interest, if applicable, to arrive at the net level of compensation due to the claimant. Once the claimant has satisfied all conditions for payment, the hearing officer has issued a final order, or an order becomes final after an appeal, the time limits and penalties prescribed by s. 215.422 shall apply to any net compensation due a claimant.

(6) A claimant who agrees to accept the net compensation computed pursuant to this section and who signs a release as described in s. 602.055(2) shall thereupon be paid for the claim by the Office of Citrus Canker Claims.

(7)(a) A claimant who contests the net compensation computed pursuant to this section or the number and category of citrus nursery plants destroyed shall be entitled to proceed before a hearing officer.

(b) In the event that a claimant contests the net compensation computed pursuant to this section or the number and category of citrus plants destroyed and does not request a hearing, the Office of Citrus Canker Claims, in consultation with the Department of Legal Affairs, shall be entitled to proceed before a hearing officer, at any point in the process, when such proceeding is deemed to be in the best interest of the state.

(8) The director of the Division of Administrative Hearings shall appoint a hearing officer to conduct each citrus canker claim proceeding, including those for attorney's fees and costs.

(9) The Department of Legal Affairs shall provide representation and assistance to the Office of Citrus Canker Claims and may provide representation to any state agency affected by this act. The Department of Legal Affairs shall also take all necessary and appropriate action determined to be available to ensure that the Federal Government releases to the State of Florida any available funds which reimburse the state the Federal Government's share of the costs arising from the eradication of citrus canker. All funds received by the state from the Federal Government to reimburse the state for its share of the costs arising from the eradication of the

citrus canker shall be divided and deposited in the following proportions:

(a) Fifty percent into the General Revenue Fund; and

(b) Fifty percent into the Citrus Advertising Trust Fund.

(10) In a proceeding under this act, the hearing officer's final order shall determine:

(a) The value of the claimant's citrus nursery plants at the time of destruction.

(b) The number and category of the claimant's citrus nursery plants.

(c) Whether the destruction was required by either the state or Federal Government, or both.

(d) The amount of any money previously paid, and the dates such moneys were paid, for destroyed citrus nursery plants to the claimant by the state or Federal Government, or both, pursuant to the Citrus Canker Eradication Program.

(e) The amount of attorney's fees and costs, if any, pursuant to this section or s. 602.075, as appropriate.

(f) Any other matters necessary to the resolution of the claim as contemplated by this act.

(11) The records of the Department of Agriculture and Consumer Services regarding the numbers and categories of citrus nursery plants destroyed shall be presumed correct but may be rebutted.

(12) The values established in s. 602.035 shall be presumed to provide full and fair compensation but may be rebutted.

(13) Attorney's fees for claims presented before the hearing officer shall be based upon a reasonable rate for the time necessarily expended for the claim and the hearing. It is presumed that this amount shall not exceed 10 percent of the amount recovered in excess of the net compensation calculated pursuant to subsection (5), but this may be rebutted. Reimbursement shall be made for such costs deemed necessary and proper.

(14) Orders entered by hearing officers under this act may be appealed pursuant to s. 120.68. The First District Court of Appeal shall have sole and exclusive jurisdiction over all interlocutory and final orders in proceedings under this act.

History.—s. 6, ch. 89-91; s. 4, ch. 89-542; s. 5, ch. 91-75; s. 9, ch. 94-346.

602.075 Attorney's fees.—

(1) This section shall apply to all claimants who have filed lawsuits prior to June 20, 1989, involving compensation for destruction of citrus nursery plants as a result of the Citrus Canker Eradication Program begun in 1984, except those in which there is a final order awarding attorney's fees and costs as of such date, from which no appeal has been taken.

(2) In addition to the compensation due under s. 602.065(5), claimants are entitled to reimbursement for reasonable attorney's fees and costs for representation in lawsuits described in subsection (1).

(3) The determination of an amount due for attorney's fees and costs shall be made by final order of a hearing officer from the Division of Administrative Hearings.

(4) In determining the amount due for attorney's fees and costs, the hearing officer shall consider the following factors:

(a) The attorney's time and labor reasonably required to adequately represent the client. The attorney shall submit to the Office of Citrus Canker Claims complete time records of all citrus canker lawsuits handled by that attorney, including a detailed statement of services performed, time spent performing such services, and costs incurred at least 30 days prior to the hearing.

(b) The fee, or rate of fee, customarily charged in the locality for legal services of a comparable or similar nature.

(c) The experience, reputation, diligence, and ability of the attorney performing the service and the skill, expertise, or efficiency of effort reflected in the actual providing of such service.

(d) Whether the attorney's efforts were duplicative of work done by that attorney for another client who had a citrus canker lawsuit or claim pursuant to this section.

(e) Whether the attorney's efforts were duplicative of work done by other attorneys in earlier citrus canker lawsuits or claims pursuant to this act.

History.—s. 7, ch. 89-91.

602.085 Venue for administrative proceedings.—

All administrative proceedings shall be held in the county in which the citrus nursery plants were destroyed, unless otherwise ordered by the hearing officer for good cause.

History.—s. 8, ch. 89-91.

602.095 Application of act; filing deadline.—

(1) It is the intent of the Legislature that this act apply to all claimants whose citrus nursery plants were infected by or exposed to the nursery strain of citrus canker and that those persons be required to proceed pursuant to this act as an exclusive alternative means of resolving these disputes.

(2) All applications described in s. 602.055 for compensation under this act must be filed with the Office of Citrus Canker Claims within 1 year of the notice provided pursuant to s. 602.065(2) by the Office of Citrus Canker Claims.

History.—s. 9, ch. 89-91; s. 5, ch. 89-542.

602.097 Court action; effect.—If there is a ruling from any court that any provision of this act is unconstitutional and the ruling substantially affects this act, the Office of Citrus Canker Claims shall cease payment of any claims, and all hearings under this act shall be continued pending final resolution; provided, however, administrative costs shall be paid.

History.—s. 15, ch. 89-91.

602.099 Notification upon immediate final order.—

The Department of Agriculture and Consumer Services shall notify the Office of Citrus Canker Claims within 15 days of an immediate final order. The Department of Agriculture and Consumer Services shall provide the Office of Citrus Canker Claims with all assistance necessary to carry out the provisions of this act.

History.—s. 16, ch. 89-91.