

# The Agriculturalist Lawyer



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## Note From the Chair

By Anne "Beth" Crocker, Section Chair  
bcrocker@scda.sc.gov

This is my first newsletter message as the chair of the section, and I want to start off by thanking everyone for their support, especially Immediate Past Chair Allen Olsen. Allen has been so instrumental in creating the newfound momentum of this section, and I hope that he knows how much we all appreciate his efforts.

To continue with the momentum of the section, we have already begun planning for our 2008 CLE program. If you have suggestions for topics and/or speakers, or would like to be involved in the program planning, please e-mail me at bcrocker@scda.sc.gov. You may also e-mail any of the members of the Executive Committee; we welcome your input!

Speaking of the Executive Committee, I'd like to introduce your committee members:

**Vice Chair:**

Nowell Berreth, with Alston & Bird LLP in Atlanta

**Secretary/Treasurer:**

Samuel Prim, with Prim, Freeman & Mendheim, LLC in Dothan, Ala.

**Member-at-Large:**

Matt Mattila, with Powell Goldstein LLP in Atlanta

**Member-at-Large:**

Diane Woods, with Huff, Woods & Hamby in Marietta

I also want to remind you that we have a Yahoo Group to provide a free forum for our members to share thoughts and information with each other regarding agricultural legal issues. To participate in the discussions and to read past discussions, you will need to be invited as a member of the group, so please e-mail Samuel Prim at [hsprim3@graceba.net](mailto:hsprim3@graceba.net).

The American Agricultural Law Association (AALA) recently held its 30th annual Agricultural Law Symposium in San Diego, Calif., this past October. The AALA symposium is a great opportunity to meet other agricultural legal specialists from around the nation, and to hear and discuss topics of interest to agricultural and legal professionals through out the country. To learn more about the AALA, please visit <http://www.aglaw-assn.org/index.html>.

While attending the recent AALA Symposium, my favorite session was on legal issues facing veterinarian professionals. I learned that a group of professionals with both a D.V.M. degree and a J.D. make up the majority membership of the American Veterinary Medical Law Association. A past president of this association gave a great presentation on the changing role of the veterinarian professional and their responsibilities towards society as a whole. I was fascinated by some of the points of discussion. To learn more about this unique association, check out their website at <http://www.avmla.org>.

Please enjoy the excellent update on the 2008 Farm Bill put together by section member Anne Hazlett who currently serves as counsel for Sen. Saxby Chambliss and the Senate Agriculture Committee in Washington, D.C. If you're interested in contributing to the newsletter in the future with an article of interest for the section membership, please do not hesitate to contact me.

I look forward to serving as your section leader and hope to hear from you regarding ways that the section can better serve your needs.

# Update on 2008 Farm Bill Development

By Anne Hazlett,  
Counsel to U.S. Senator Saxby Chambliss, Senate Agriculture Committee

Every four to six years, federal farm policy is renewed in an omnibus piece of legislation known as the "farm bill." At present, the U.S. Congress is in the midst of revising the current farm bill that was written in 2002. Covering a wide range of subject areas, that measure sets policy and includes funding for commodity price and income support, conservation, credit, research, rural development, trade and nutrition programs.

Deliberations over the next farm bill began in 2006 when both the House and Senate Agriculture Committees held hearings in Washington D.C., and across the country, including a June 2006 hearing conducted by then Chairman Saxby Chambliss in Albany, Ga., and an April 2007 hearing held in Atlanta. The House Agriculture Committee completed its version of the measure (H.R. 2419) in mid-July 2007 with the House of Representatives passing the bill on July 27, 2007. The Senate Agriculture Committee approved its version (S. 2302) in late October 2007 with passage by the full Senate on Dec. 14, 2007. Conference negotiations between the two chambers are expected to begin this month.

Both the House and Senate measures are written to govern farm policy through 2012 and make predominantly similar changes to existing law and programs. In the commodity title, both bills continue the safety net framework of the 2002 Farm Bill with the direct payment, countercyclical program and marketing loan program. Both versions make adjustments to target prices and loan rates.

Of particular interest to Georgia agriculture, both bills reduce the target price for cotton and make reforms to the administration of the marketing loan. Savings from these changes are then used to fund an economic assistance package for the struggling domestic textile industry. With respect to peanuts, another important commodity for the state of Georgia, the House and Senate both maintain the current target price, loan rate and direct payment rates. However, the Senate bill goes on to include a provision that will ensure handling and associated costs aren't deducted from a producer's marketing loan benefit.

In addition to the traditional safety net, the House and Senate bills both create a revenue option for commodity program participants. The House bill offers revenue-based countercyclical program as a replacement for the current countercyclical program that is based on price.

This option would replace only the existing countercyclical payment, leaving direct payments and marketing loans unchanged. By contrast, the Senate bill offers a state-level "average crop revenue" program that is an entire replacement for the traditional safety net.

Both bills provide significant new funding for specialty crops including money for specialty crop block grants, organic production and farmers market promotion. Neither the House nor the Senate legislation change the fruit and vegetable planting restriction although both bills create a pilot program that will allow processing tomatoes to be grown on base acres in Indiana.

On the subject of payment limitations, both the House and Senate Farm Bill make historic changes to current law. The measures eliminate the so-called "3-entity rule" which allows individuals to increase their payments by having multiple ownership interests, require "direct attribution" of payments to a natural person instead of to a corporation, partnership or other business entity, and significantly reduce the adjusted gross income limit for receiving payments. Both bills also eliminate the current limit on benefits from the marketing loan program. The House bill raises the limit on direct payments. The Senate legislation keeps the current limit on direct payments but lowers the limit on countercyclical payments. The Senate bill also preserves a separate payment limit for peanuts while the House bill combines this limit with other commodities.

In conservation, the House and Senate measures reauthorize current programs while making some tweaks and improvements to make them work better for producers. The bills make substantial changes to the Conservation Security Program but in different ways. The bills also increase the funding levels for several popular programs and create new areas of emphasis within the programs such as forestry and pollinator habitat. Of interest to Georgia landowners, the Senate bill creates a new Wildlife Habitat Program within the Conservation Reserve Program that would help producers create new habitat for bobwhite quail, wild turkeys and other wildlife common in the Southeast. With respect to payment limitations, the House bill sets an overall fiscal year payment limit of \$60,000 for any single conservation program and \$125,000 for all but three programs.

Both the House and Senate measures contain an energy title. The bills expand and extend several energy programs from the 2002 Farm Bill but place a new focus on

developing cellulosic ethanol production. For example, the House and Senate both establish a new program to stimulate and facilitate the production, harvest, storage and processing of cellulosic feedstock for energy production. Funding levels for the programs in this title vary between the two versions.

Beyond these titles of primary interest to production agriculture, other major provisions and related issues to be considered in conference include:

Livestock—animal welfare and inspections, competition and marketing, state-inspected meat and poultry, and country-of-origin labeling;

Trade and international food assistance- international food aid, export market development, and export credit guarantee programs;

Nutrition—level of benefits to food stamp recipients, eligibility standards for food stamp benefits, fresh fruit and vegetable snack program, privatization of state food stamp administration, farmers market nutrition programs, local purchase requirements for school meals, and emergency food assistance;

Credit—lending for beginning and socially-disadvantaged farmers and ranchers, increased lending limits, term limits on guaranteed loans, a pilot program for beginning producers, and compensation for minority farmers under the *Pigford* decision;

Rural development—broadband development, definition of “rural area”, assistance for rural hospitals and child-care facilities, rural water projects, and rural business development;

Research—structure of agriculture research management, and research funding levels;

Forestry—forest resource planning, emergency forestry restoration assistance and open space conservation; and

Miscellaneous—crop insurance reform, disaster assistance, food safety, cloned animals, agricultural security and greater technical assistance for socially-disadvantaged farmers and ranchers

At present, portions of the current Farm Bill have been extended through March 15, 2008. With this stopgap measure in place, House and Senate lawmakers have a narrow window of opportunity in which to conference the two versions before planting season is underway in many parts of the country. Should the conference be unsuccessful in finishing its negotiations before March 15, further extension of the 2002 law will be necessary to prevent farm policy from reverting to the non-expiring terms

of the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949.

AUTHOR’S NOTE: If you or any of your clients would like information about a specific issue under consideration in this Farm Bill debate, please don’t hesitate to contact Sen. Chambliss through me by e-mail at [anne\\_hazlett@agriculture.senate.gov](mailto:anne_hazlett@agriculture.senate.gov) or 202-224-8812.