

# The 2008 Florida Statutes

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**Title XVIII**  
PUBLIC LANDS AND  
PROPERTY

**Chapter 259**  
LAND ACQUISITIONS FOR CONSERVATION  
OR RECREATION

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**259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.; creation; membership; organization; meetings.--**

(1) SHORT TITLE.--This section may be cited as the "Babcock Ranch Preserve Act."

(2) DEFINITIONS.--As used in this section, the term:

(a) "Babcock Ranch Preserve" and "preserve" mean the lands and facilities acquired in the purchase of the Babcock Crescent B Ranch, as provided in s. [259.1052](#).

(b) "Babcock Ranch, Inc.," and "corporation" mean the not-for-profit corporation created under this section to operate and manage the Babcock Ranch Preserve as a working ranch.

(c) "Board of directors" means the governing board of the not-for-profit corporation created under this section.

(d) "Commission" means the Fish and Wildlife Conservation Commission.

(e) "Commissioner" means the Commissioner of Agriculture.

(f) "Department" means the Department of Agriculture and Consumer Services.

(g) "Executive director" means the Executive Director of the Fish and Wildlife Conservation Commission.

(h) "Financially self-sustaining" means having management and operation expenditures not more than the revenues collected from fees and other receipts for resource use and development and from interest and invested funds.

(i) "Management and operating expenditures" means expenses of the corporation, including, but not limited to, salaries and benefits of officers and staff, administrative and operating expenses, costs of improvements to and maintenance of lands and

facilities of the Babcock Ranch Preserve, and other similar expenses. Such expenditures shall be made from revenues generated from the operation of the ranch and not from funds appropriated by the Legislature except as provided in this section.

(j) "Member" means a person appointed to the board of directors of the not-for-profit corporation created under this section.

(k) "Multiple use" means the management of all of the renewable surface resources of the Babcock Ranch Preserve to best meet the needs of the public, including the use of the land for some or all of the renewable surface resources or related services over areas large enough to allow for periodic adjustments in use to conform to the changing needs and conditions of the preserve while recognizing that a portion of the land will be used for some of the renewable surface resources available on that land. The goal of multiple use is the harmonious and coordinated management of the renewable surface resources without impairing the productivity of the land and considering the relative value of the renewable surface resources, and not necessarily a combination of uses to provide the greatest monetary return or the greatest unit output.

(l) "Sustained yield of the renewable surface resources" means the achievement and maintenance of a high level of annual or regular periodic output of the various renewable surface resources of the preserve without impairing the productivity of the land.

### (3) CREATION OF BABCOCK RANCH PRESERVE.--

(a) Upon the date of acquisition of the Babcock Crescent B Ranch, there is created the Babcock Ranch Preserve, which shall be managed in accordance with the purposes and requirements of this section.

(b) The preserve is established to protect and preserve the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve, and to provide for the multiple use and sustained yield of the renewable surface resources within the preserve consistent with this section.

(c) Babcock Ranch, Inc., and its officers and employees shall participate in the management of

the Babcock Ranch Preserve in an advisory capacity only until the management agreement referenced in paragraph (11)(a) is terminated or expires.

(d) Nothing in this section shall preclude Babcock Ranch, Inc., prior to assuming management and operation of the preserve and thereafter, from allowing the use of common varieties of mineral materials such as sand, stone, and gravel for construction and maintenance of roads and facilities within the preserve.

(e) Nothing in this section shall be construed as affecting the constitutional responsibilities of the commission in the exercise of its regulatory and executive power with respect to wild animal life and freshwater aquatic life, including the regulation of hunting, fishing, and trapping within the preserve.

(f) Nothing in this section shall be construed to interfere with or prevent the ability of Babcock Ranch, Inc., to implement agricultural practices authorized by the agricultural land use designations established in the local comprehensive plans of either Charlotte County or Lee County as those plans apply to the Babcock Ranch Preserve.

(g) To clarify the responsibilities of the lead managing agencies and the not-for-profit corporation created under this section, the lead managing agencies are directed to establish a range of resource protection values for the Babcock Ranch Preserve, and the corporation shall establish operational parameters to conduct the business of the ranch within the range of values. The corporation shall establish a range of operational values for conducting the business of the ranch, and the lead managing agencies providing ground support to the ranch outside of each agency's jurisdictional responsibilities shall establish management parameters within that range of values.

(h) Nothing in this section shall preclude the maintenance and use of roads and trails or the relocation of roads in existence on the effective date of this section, or the construction, maintenance, and use of new trails, or any motorized access necessary for the administration of the land contained within the preserve, including motorized access necessary for emergencies involving the health or safety of persons within the

preserve.

(j) The Division of State Lands of the Department of Environmental Protection shall perform staff duties and functions for Babcock Ranch, Inc., the not-for-profit corporation created under this section, until such time as the corporation organizes to elect officers, file articles of incorporation, and exercise its powers and duties.

(4) CREATION OF BABCOCK RANCH, INC.--

(a) Subject to filing articles of incorporation, there is created a not-for-profit corporation, to be known as Babcock Ranch, Inc., which shall be registered, incorporated, organized, and operated in compliance with the provisions of chapter 617, and which shall not be a unit or entity of state government. For purposes of sovereign immunity, the corporation shall be a corporation primarily acting as an instrumentality of the state but otherwise shall not be an agency within the meaning of s. [20.03](#)(11) or a unit or entity of state government.

(b) The corporation is organized on a nonstock basis and shall operate in a manner consistent with its public purpose and in the best interest of the state.

(c) Meetings and records of the corporation, its directors, advisory committees, or similar groups created by the corporation, including any not-for-profit subsidiaries, are subject to the public records provisions of chapter 119 and the public meetings and records provisions of s. [286.011](#).

(5) APPLICABILITY OF SECTION.--In any conflict between a provision of this section and a provision of chapter 617, the provisions of this section shall prevail.

(6) PURPOSE.--The purpose of Babcock Ranch, Inc., is to provide management and administrative services for the preserve, to establish and implement management policies that will achieve the purposes and requirements of this section, to cooperate with state agencies to further the purposes of the preserve, and to establish the administrative and accounting procedures for the operation of the corporation.

(7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.--The corporation shall be governed by a nine-member

board of directors who shall be appointed by the Board of Trustees of the Internal Improvement Trust Fund; the executive director of the commission; the Commissioner of Agriculture; the Babcock Florida Company, a corporation registered to do business in the state, or its successors or assigns; the Charlotte County Board of County Commissioners; and the Lee County Board of County Commissioners in the following manner:

(a)1. The Board of Trustees of the Internal Improvement Trust Fund shall appoint four members. One appointee shall have expertise in domesticated livestock management, production, and marketing, including range management and livestock business management. One appointee shall have expertise in the management of game and nongame wildlife and fish populations, including hunting, fishing, and other recreational activities.

One appointee shall have expertise in the sustainable management of forest lands for commodity purposes. One appointee shall have expertise in financial management, budget and program analysis, and small business operations.

2. The executive director shall appoint one member with expertise in hunting; fishing; nongame species management; or wildlife habitat management, restoration, and conservation.

3. The commissioner shall appoint one member with expertise in agricultural operations or forestry management.

4. The Babcock Florida Company, or its successors or assigns, shall appoint one member with expertise in the activities and management of the Babcock Ranch on the date of acquisition of the ranch by the state as provided under s. [259.1052](#). This appointee shall serve on the board of directors only until the termination of or expiration of the management agreement attached as Exhibit "E" to that certain Agreement for Sale and Purchase approved by the Board of Trustees of the Internal Improvement Trust Fund on November 22, 2005, and by Lee County, a political subdivision of the state, on November 20, 2005. Upon termination of or expiration of the management agreement, the person serving as the head of the property owners' association, if any, required to be created under the agreement for sale and purchase shall serve as a member of the board of directors of Babcock Ranch, Inc.

5. The Charlotte County Board of County

Commissioners shall appoint one member who shall be a resident of the county and who shall be active in an organization concerned with the activities of the ranch.

6. The Lee County Board of County Commissioners shall appoint one member who shall be a resident of the county and who shall have experience in land conservation and management. This appointee, or a successor appointee, shall serve as a member of the board of directors so long as the county participates in the state land management plan.

(b) All members of the board of directors shall be appointed no later than 90 days following the initial acquisition of the Babcock Ranch by the state, and:

1. Four members initially appointed by the Board of Trustees of the Internal Improvement Trust Fund shall each serve a 4-year term.
2. The remaining initial five appointees shall each serve a 2-year term.
3. Each member appointed thereafter shall serve a 4-year term.
4. A vacancy shall be filled in the same manner in which the original appointment was made, and a member appointed to fill a vacancy shall serve for the remainder of that term.
5. No member may serve more than 8 years in consecutive terms.

(c) With the exception of the Babcock Florida Company appointee, no member may be an officer, director, or shareholder in any entity that contracts with or receives funds from the corporation or its subsidiaries.

(d) No member shall vote in an official capacity upon any measure that would inure to his or her special private gain or loss, that he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a principal by which he or she is retained, or that he or she knows would inure to the special private gain or loss of a relative or business associate of the member. Such member shall, prior to the vote being taken, publicly state the nature of his or her interest in the matter from which he or she is abstaining from

voting and, no later than 15 days following the date the vote occurs, shall disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes of the meeting.

(e) Each member of the board of directors is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure that funds provided in furtherance of this section are disbursed and used as prescribed by law and contract. Any official appointing a member may remove that member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, unexcused absence from three consecutive meetings of the board, arrest or indictment for a crime that is a felony or misdemeanor involving theft or a crime of dishonesty, or pleading nolo contendere to, or being found guilty of, any crime.

(f) Each member of the board of directors shall serve without compensation, but shall receive travel and per diem expenses as provided in s. [112.061](#) while in the performance of his or her duties.

(g) No appointee shall be an employee of any governmental entity.

#### (8) ORGANIZATION; MEETINGS.--

(a)1. The board of directors shall annually elect a chairperson and a vice chairperson from among the board's members. The members may, by a vote of five of the nine board members, remove a member from the position of chairperson or vice chairperson prior to the expiration of his or her term as chairperson or vice chairperson. His or her successor shall be elected to serve for the balance of the removed chairperson's or vice chairperson's term.

2. The chairperson shall ensure that records are kept of the proceedings of the board of directors, and is the custodian of all books, documents, and papers filed with the board, the minutes of meetings of the board, and the official seal of the corporation.

(b)1. The board of directors shall meet upon the call of the chairperson at least 3 times per year in

Charlotte County or in Lee County.

2. A majority of the members of the board of directors constitutes a quorum. Except as otherwise provided in this section, the board of directors may take official action by a majority of the members present at any meeting at which a quorum is present. Members may not vote by proxy.

(9) POWERS AND DUTIES.--

(a) The board of directors shall adopt articles of incorporation and bylaws necessary to govern its activities. The adopted articles of incorporation and bylaws must be approved by the Board of Trustees of the Internal Improvement Trust Fund prior to filing with the Department of State.

(b) The board of directors shall review and approve any management plan developed pursuant to ss. [253.034](#) and [259.032](#) for the management of lands in the preserve prior to the submission of that plan to the Board of Trustees of the Internal Improvement Trust Fund for approval and implementation.

(c)1. Except for the constitutional powers of the commission as provided in s. 9, Art. IV of the State Constitution, the board of directors shall have all necessary and proper powers for the exercise of the authority vested in the corporation, including, but not limited to, the power to solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other public or private entities for the purposes of this section. All funds received by the corporation shall be deposited into the operating fund authorized under this section unless otherwise directed by the Legislature.

2. The board of directors may not increase the number of its members.

3. Except as necessary to manage and operate the preserve as a working ranch, the corporation may not purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with real property, or any interest therein, wherever situated.

4. The corporation may not sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise

dispose of any real property.

5. The corporation may not purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of or otherwise use and deal in and with, shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or any other government, state, territory, government district, municipality, or any instrumentality thereof.

6. The corporation may not lend money for its corporate purposes, invest and reinvest its funds, or take and hold real and personal property as security for the payment of funds lent or invested.

7. The corporation may not merge with other corporations or other business entities.

8. The corporation may not enter into any contract, lease, or other agreement related to the use of ground or surface waters located in, on, or through the preserve without the consent of the Board of Trustees of the Internal Improvement Trust Fund and permits that may be required by the Department of Environmental Protection or the appropriate water management district under chapters 373 and 403.

9. The corporation may not grant any easements in, on, or across the preserve. Any easements to be granted for the use of, access to, or ingress and egress across state property within the preserve must be executed by the Board of Trustees of the Internal Improvement Trust Fund as the owners of the state property within the preserve. Any easements to be granted for the use of, access to, or ingress and egress across property within the preserve titled in the name of a local government must be granted by the governing body of that local government.

10. The corporation may not enter into any contract, lease, or other agreement related to the use and occupancy of the property within the preserve for a period greater than 10 years.

(d) The members may, with the written approval of the commission and in consultation with the department, designate hunting, fishing, and

trapping zones and may establish additional periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species, as defined under <sup>1</sup>s. [372.001](#).

(e) The corporation shall have the sole and exclusive right to use the words "Babcock Ranch, Inc.," and any seal, emblem, or other insignia adopted by the members. Without the express written authority of the corporation, no person may use the words "Babcock Ranch, Inc.," as the name under which that person conducts or purports to conduct business, for the purpose of trade or advertisement, or in any manner that may suggest any connection with the corporation.

(f) The corporation may from time to time appoint advisory committees to further any part of this section. The advisory committees shall be reflective of the expertise necessary for the particular function for which the committee is created, and may include public agencies, private entities, and not-for-profit conservation and agricultural representatives.

(g) State laws governing the procurement of commodities and services by state agencies, as provided in s. [287.057](#), shall apply to the corporation.

(h) The corporation and its subsidiaries must provide equal employment opportunities for all persons regardless of race, color, religion, gender, national origin, age, handicap, or marital status.

(10) OPERATING FUND, ANNUAL BUDGET, AUDIT, REPORTING REQUIREMENTS.--

(a) The board of directors may establish and manage an operating fund to address the corporation's unique cash-flow needs and to facilitate the management and operation of the preserve as a working ranch.

(b) The board of directors shall provide for an annual financial audit of the corporate accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General under s. [11.45\(8\)](#). The audit report shall be submitted no later than 3 months following the end of the fiscal year to the Auditor General, the President of the Senate, the

Speaker of the House of Representatives, and the appropriate substantive and fiscal committees of the Legislature. The Auditor General, the Office of Program Policy Analysis and Government Accountability, and the substantive or fiscal committees of the Legislature to which legislation affecting the Babcock Ranch Preserve may be referred shall have the authority to require and receive from the corporation or from the independent auditor any records relative to the operation of the corporation.

(c) Not later than January 15 of each year, Babcock Ranch, Inc., shall submit to the Board of Trustees of the Internal Improvement Trust Fund, the President of the Senate, the Speaker of the House of Representatives, the department, and the commission a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year, including information on the status of the ecological, cultural, and financial resources being managed by the corporation, and benefits provided by the preserve to local communities. The report shall also include a section describing the corporation's goals for the current year.

(d) The board of directors shall prepare an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the initial acquisition of the Babcock Ranch by the state. The department shall provide necessary assistance, including details as necessary, to the corporation for the timely formulation and submission of an annual legislative budget request for appropriations, if any, to support the administration, operation, and maintenance of the preserve. A request for appropriations shall be submitted to the department and shall be included in the department's annual legislative budget request. Requests for appropriations shall be submitted to the department in time to allow the department to meet the requirements of s. [216.023](#). The department may not deny a request or refuse to include in its annual legislative budget submission a request from the corporation for an appropriation.

(e) Notwithstanding any other provision of law, all moneys received from donations or from management of the preserve shall be retained by the corporation in the operating fund and shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvements, repairs, and related expenses incurred with respect to

properties being managed by the corporation. Except as provided in this section, moneys received by the corporation for the management of the preserve shall not be subject to distribution by the state. Upon assuming management responsibilities for the preserve, the corporation shall optimize the generation of income based on existing marketing conditions to the extent that activities do not unreasonably diminish the long-term environmental, agricultural, scenic, and natural values of the preserve, or the multiple-use and sustained-yield capability of the land.

(f) All parties in contract with the corporation and all holders of leases from the corporation which are authorized to occupy, use, or develop properties under the management jurisdiction of the corporation must procure proper insurance as is reasonable or customary to insure against any loss in connection with the properties or with activities authorized in the leases or contracts.

(11) COMPREHENSIVE BUSINESS PLAN.--

(a) A comprehensive business plan for the management and operation of the preserve as a working ranch and amendments to the business plan may be developed only with input from the department and the commission, and may be implemented by Babcock Ranch, Inc., only upon expiration of the management agreement attached as Exhibit "E" to that certain agreement for sale and purchase approved by the Board of Trustees of the Internal Improvement Trust Fund on November 22, 2005, and by Lee County on November 20, 2005.

(b) Any final decision of Babcock Ranch, Inc., to adopt or amend the comprehensive business plan or to approve any activity related to the management of the renewable surface resources of the preserve shall be made in sessions that are open to the public. The board of directors shall establish procedures for providing adequate public information and opportunities for public comment on the proposed comprehensive business plan for the preserve or for amendments to the comprehensive business plan adopted by the members.

(c) Not less than 2 years prior to the corporation's assuming management and operation responsibilities for the preserve, the corporation, with input from the commission and the department, must begin developing the

comprehensive business plan to carry out the purposes of this section. To the extent consistent with these purposes, the comprehensive business plan shall provide for:

1. The management and operation of the preserve as a working ranch;
2. The protection and preservation of the environmental, agricultural, scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the preserve;
3. The promotion of high-quality hunting experiences for the public, with emphasis on deer, turkey, and other game species;
4. Multiple use and sustained yield of renewable surface resources within the preserve;
5. Public use of and access to the preserve for recreation; and
6. The use of renewable resources and management alternatives that, to the extent practicable, benefit local communities and small businesses and enhance the coordination of management objectives with those on surrounding public or private lands. The use of renewable resources and management alternatives should provide cost savings to the corporation through the exchange of services, including, but not limited to, labor and maintenance of facilities, for resources or services provided to the corporation.

(d) On or before the date on which title to the portion of the Babcock Crescent B Ranch being purchased by the state as provided in s. [259.1052](#) is vested in the Board of Trustees of the Internal Improvement Trust Fund, Babcock Ranch Management, LLC, a limited liability company incorporated in this state, shall provide the commission and the department with the management plan and business plan in place for the operation of the ranch as of November 22, 2005, the date on which the board of trustees approved the purchase.

(12) MANAGEMENT OF PRESERVE; FEES.--

(a) The corporation shall assume all authority provided by this section to manage and operate the preserve as a working ranch upon a determination

by the Board of Trustees of the Internal Improvement Trust Fund that the corporation is able to conduct business, and that provision has been made for essential services on the preserve, which, to the maximum extent practicable, shall be made no later than 60 days prior to the termination of the management agreement referenced in paragraph (11)(a).

(b) Upon assuming management and operation of the preserve, the corporation shall:

1. With input from the commission and the department, manage and operate the preserve and the uses thereof, including, but not limited to, the activities necessary to administer and operate the preserve as a working ranch; the activities necessary for the preservation and development of the land and renewable surface resources of the preserve; the activities necessary for interpretation of the history of the preserve on behalf of the public; the activities necessary for the management, public use, and occupancy of facilities and lands within the preserve; and the maintenance, rehabilitation, repair, and improvement of property within the preserve;

2. Develop programs and activities relating to the management of the preserve as a working ranch;

3. Negotiate directly with and enter into such agreements, leases, contracts, and other arrangements with any person, firm, association, organization, corporation, or governmental entity, including entities of federal, state, and local governments, as are necessary and appropriate to carry out the purposes and activities authorized by this section;

4. Establish procedures for entering into lease agreements and other agreements for the use and occupancy of the facilities of the preserve. The procedures shall ensure reasonable competition and set guidelines for determining reasonable fees, terms, and conditions for such agreements; and

5. Assess reasonable fees for admission to, use of, and occupancy of the preserve to offset costs of operating the preserve as a working ranch. These fees are independent of fees assessed by the commission for the privilege of hunting, fishing, or pursuing outdoor recreational activities within the preserve, and shall be deposited into the operating fund established by the board of directors under the

authority provided under this section.

(13) MISCELLANEOUS PROVISIONS.--

(a) Except for the powers of the commissioner provided in this section, and the powers of the commission provided in s. 9, Art. IV of the State Constitution, the preserve shall be managed by Babcock Ranch, Inc.

(b) Officers and employees of Babcock Ranch, Inc., are private employees. At the request of the board of directors, the commission and the department may provide state employees for the purpose of implementing this section. Any state employees provided to assist the directors in implementing this section for more than 30 days shall be provided on a reimbursable basis. Reimbursement to the commission and the department shall be made from the corporation's operating fund provided under this section and not from any funds appropriated to the corporation by the Legislature.

(14) DISSOLUTION OF BABCOCK RANCH, INC.--

(a) The corporation may be dissolved only by an act of the Legislature.

(b) Upon dissolution of the corporation, the management responsibilities provided in this section shall revert to the commission and the department unless otherwise provided by the Legislature under the act dissolving Babcock Ranch, Inc.

(c) Upon dissolution of the corporation, any cash balances of funds shall revert to the General Revenue Fund or such other state fund as may be provided under the act dissolving Babcock Ranch, Inc.

**History.**--s. 9, ch. 2006-231; s. 33, ch. 2007-5.

<sup>1</sup>**Note.**--Repealed by s. 208, ch. 2008-247. "Nongame" is now defined under s. [379.101](#), as redesignated and amended by s. 3, ch. 2008-247.