

1 A bill to be entitled
2 An act relating to community development and
3 planning; creating s. 163.3162, F.S.; providing
4 a short title; providing legislative findings
5 and purpose with respect to agricultural
6 activities and duplicative regulation; defining
7 the terms "farm," "farm operation," and "farm
8 product" for purposes of the act; prohibiting a
9 county from adopting any ordinance, resolution,
10 regulation, rule, or policy to prohibit or
11 otherwise limit a bona fide farm operation on
12 land that is classified as agricultural land
13 under s. 193.461, F.S.; providing that the act
14 does not limit the powers of a county under
15 certain circumstances; clarifying that a farm
16 operation may not expand its operations under
17 certain circumstances; providing that the act
18 does not limit the powers of certain counties;
19 providing that certain county ordinances are
20 not deemed to be a duplication of regulation;
21 amending s. 193.461, F.S.; authorizing the
22 governing body of a county to revoke the waiver
23 of annual property classification; revising the
24 date by which the property appraiser must
25 provide notice to property owners; providing
26 for waiver and revocation of the waiver of the
27 notice and certification requirement for land
28 classification; defining the term "extenuating
29 circumstances" to include failure to return the
30 agricultural classification form under certain
31 circumstances; providing for effect of waiver

1 of annual application requirements; providing
2 effective dates.

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Section 163.3162, Florida Statutes, is
7 created to read:

8 163.3162 Agricultural Lands and Practices Act.--

9 (1) SHORT TITLE.--This section may be cited as the
10 "Agricultural Lands and Practices Act."

11 (2) LEGISLATIVE FINDINGS AND PURPOSE.--The Legislature
12 finds that agricultural production is a major contributor to
13 the economy of the state; that agricultural lands constitute
14 unique and irreplaceable resources of statewide importance;
15 that the continuation of agricultural activities preserves the
16 landscape and environmental resources of the state,
17 contributes to the increase of tourism, and furthers the
18 economic self-sufficiency of the people of the state; and that
19 the encouragement, development, and improvement of agriculture
20 will result in a general benefit to the health, safety, and
21 welfare of the people of the state. It is the purpose of this
22 act to protect reasonable agricultural activities conducted on
23 farm lands from duplicative regulation.

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

25 (a) "Farm" is as defined in s. 823.14.

26 (b) "Farm operation" is as defined in s. 823.14.

27 (c) "Farm product" means any plant, as defined in s.
28 581.011, or animal useful to humans and includes, but is not
29 limited to, any product derived therefrom.

30 (4) DUPLICATION OF REGULATION.--Except as otherwise
31 provided in this section and s. 487.051(2), and

1 notwithstanding any other law, including any provision of
2 chapter 125 or this chapter, a county may not exercise any of
3 its powers to adopt any ordinance, resolution, regulation,
4 rule, or policy to prohibit, restrict, regulate, or otherwise
5 limit an activity of a bona fide farm operation on land
6 classified as agricultural land pursuant to s. 193.461, if
7 such activity is regulated through implemented best-management
8 practices, interim measures, or regulations developed by the
9 Department of Environmental Protection, the Department of
10 Agriculture and Consumer Services, or a water management
11 district and adopted under chapter 120 as part of a statewide
12 or regional program; or if such activity is expressly
13 regulated by the United States Department of Agriculture, the
14 United States Army Corps of Engineers, or the United States
15 Environmental Protection Agency.

16 (a) When an activity of a farm operation takes place
17 within a wellfield protection area as defined in any wellfield
18 protection ordinance adopted by a county, and the implemented
19 best-management practice, regulation, or interim measure does
20 not specifically address wellfield protection, a county may
21 regulate that activity pursuant to such ordinance. This
22 subsection does not limit the powers and duties provided for
23 in s. 373.4592 or limit the powers and duties of any county to
24 address an emergency as provided for in chapter 252.

25 (b) This subsection may not be construed to permit an
26 existing farm operation to change to a more excessive farm
27 operation with regard to traffic, noise, odor, dust, or fumes
28 where the existing farm operation is adjacent to an
29 established homestead or business on March 15, 1982.

30 (c) This subsection does not limit the powers of a
31 predominantly urbanized county with a population greater than

1 1,500,000 and more than 25 municipalities, not operating under
2 a home rule charter adopted pursuant to ss. 10, 11, and 24,
3 Art. VIII of the Constitution of 1885, as preserved by s.
4 6(e), Art. VIII of the Constitution of 1968, which has a
5 delegated pollution control program under s. 403.182 and
6 includes drainage basins that are part of the Everglades
7 Stormwater Program, to enact ordinances, regulations, or other
8 measures to comply with the provisions of s. 373.4592, or
9 which are necessary to carrying out a county's duties pursuant
10 to the terms and conditions of any environmental program
11 delegated to the county by agreement with a state agency.

12 (d) For purposes of this subsection, a county
13 ordinance that regulates the transportation or land
14 application of domestic wastewater residuals or other forms of
15 sewage sludge shall not be deemed to be duplication of
16 regulation.

17 Section 2. Paragraphs (a) and (e) of subsection (3) of
18 section 193.461, Florida Statutes, are amended to read:

19 193.461 Agricultural lands; classification and
20 assessment; mandated eradication or quarantine program.--

21 (3)(a) No lands shall be classified as agricultural
22 lands unless a return is filed on or before March 1 of each
23 year. The property appraiser, before so classifying such
24 lands, may require the taxpayer or the taxpayer's
25 representative to furnish the property appraiser such
26 information as may reasonably be required to establish that
27 such lands were actually used for a bona fide agricultural
28 purpose. Failure to make timely application by March 1 shall
29 constitute a waiver for 1 year of the privilege herein granted
30 for agricultural assessment. However, an applicant who is
31 qualified to receive an agricultural classification who fails

1 to file an application by March 1 may file an application for
2 the classification and may file, pursuant to s. 194.011(3), a
3 petition with the value adjustment board requesting that the
4 classification be granted. The petition may be filed at any
5 time during the taxable year on or before the 25th day
6 following the mailing of the notice by the property appraiser
7 as provided in s. 194.011(1). Notwithstanding the provisions
8 of s. 194.013, the applicant must pay a nonrefundable fee of
9 \$15 upon filing the petition. Upon reviewing the petition, if
10 the person is qualified to receive the classification and
11 demonstrates particular extenuating circumstances judged by
12 the property appraiser or the value adjustment board to
13 warrant granting the classification, the property appraiser or
14 the value adjustment board may grant the classification. The
15 owner of land that was classified agricultural in the previous
16 year and whose ownership or use has not changed may reapply on
17 a short form as provided by the department. The lessee of
18 property may make original application or reapply using the
19 short form if the lease, or an affidavit executed by the
20 owner, provides that the lessee is empowered to make
21 application for the agricultural classification on behalf of
22 the owner and a copy of the lease or affidavit accompanies the
23 application. A county may, at the request of the property
24 appraiser and by a majority vote of its governing body, waive
25 the requirement that an annual application or statement be
26 made for classification of property within the county after an
27 initial application is made and the classification granted by
28 the property appraiser. Such waiver may be revoked by a
29 majority vote of the governing body of the county.

30 (e) Notwithstanding the provisions of paragraph (a),
31 land that has received an agricultural classification from ~~the~~

1 ~~property appraiser~~, the value adjustment board, or a court of
2 competent jurisdiction pursuant to this section is entitled to
3 receive such classification in any subsequent year until such
4 agricultural use of the land is abandoned or discontinued, the
5 land is diverted to a nonagricultural use, or the land is
6 reclassified as nonagricultural pursuant to subsection (4).
7 The property appraiser must, no later than January ~~31~~ 15 of
8 each year, provide notice to the owner of land that was
9 classified agricultural in the previous year informing the
10 owner of the requirements of this paragraph and requiring the
11 owner to certify that neither the ownership nor the use of the
12 land has changed. The department shall, by administrative
13 rule, prescribe the form of the notice to be used by the
14 property appraiser under this paragraph. If a county has
15 waived the requirement that an annual application or statement
16 be made for classification of property pursuant to paragraph
17 (a), the county may, by a majority vote of its governing body,
18 waive the notice and certification requirements of this
19 paragraph and shall provide the property owner with the same
20 notification provided to owners of land granted an
21 agricultural classification by the property appraiser. Such
22 waiver may be revoked by a majority vote of the county's
23 governing body. ~~However~~, This paragraph does not apply to any
24 property if the agricultural classification of that property
25 is the subject of current litigation.

26 Section 3. (1) For purposes of granting an
27 agricultural classification for January 1, 2003, the term
28 "extenuating circumstances," as used in section 193.461(3)(a),
29 Florida Statutes, includes the failure of a property owner in
30 a county that waived the annual application process to return
31 the agricultural classification form or card, which return was

1 required by operation of section 193.461(3)(e), Florida
2 Statutes, as created by chapter 2002-18, Laws of Florida.

3 (2) Any waiver of the annual application granted under
4 section 193.461(3)(a), Florida Statutes, which is in effect on
5 December 31, 2002, shall remain in full force and effect until
6 subsequently revoked as provided by section 193.461(3)(a),
7 Florida Statutes.

8 Section 4. This act shall take effect July 1, 2003.

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