

1 A bill to be entitled
2 An act relating to agriculture; amending s. 163.3162,
3 F.S.; prohibiting a county from enforcing certain limits
4 on the activity of a bona fide farm operation on
5 agricultural land under certain circumstances; prohibiting
6 a county from charging agricultural lands for stormwater
7 management assessments and fees under certain
8 circumstances; exempting certain wetland protection
9 ordinances, regulations, and rules adopted before a
10 specified date from provisions restricting a county's
11 powers over the activity on agricultural land; creating s.
12 163.3163, F.S.; creating the "Agricultural Nuisance Claim
13 Waiver Act"; providing a short title; providing
14 legislative findings and intent; defining the terms
15 "agricultural land" and "farm operation"; requiring an
16 applicant for certain development permits to sign and
17 submit to a political subdivision a waiver of certain
18 nuisance claims against neighboring agricultural land as a
19 condition of the political subdivision issuing the
20 permits; specifying information to be included in the
21 waiver; providing that a waiver is a public record;
22 amending s. 604.50, F.S.; exempting farm fences from the
23 Florida Building Code; exempting nonresidential farm
24 buildings and farm fences from county and municipal codes
25 and fees; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

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29 Section 1. Subsection (4) of section 163.3162, Florida
30 Statutes, is amended to read:

31 163.3162 Agricultural Lands and Practices Act.--

32 (4) DUPLICATION OF REGULATION.--Except as otherwise
33 provided in this section and s. 487.051(2), and notwithstanding
34 any other law, including any provision of chapter 125 or this
35 chapter, a county may not exercise any of its powers to adopt or
36 enforce any ordinance, resolution, regulation, rule, or policy
37 to prohibit, restrict, regulate, or otherwise limit an activity
38 of a bona fide farm operation on land classified as agricultural
39 land pursuant to s. 193.461, if such activity is regulated
40 through implemented best management practices, interim measures,
41 or regulations adopted as rules under chapter 120 ~~developed~~ by
42 the Department of Environmental Protection, the Department of
43 Agriculture and Consumer Services, or a water management
44 district ~~and adopted under chapter 120~~ as part of a statewide or
45 regional program; or if such activity is expressly regulated by
46 the United States Department of Agriculture, the United States
47 Army Corps of Engineers, or the United States Environmental
48 Protection Agency. A county may not charge an assessment or fee
49 for stormwater management on land classified as agricultural
50 land pursuant to s. 193.461, if the agricultural operation has a
51 National Pollutant Discharge Elimination System permit,
52 environmental resource permit, or works-of-the-district permit
53 or implements best management practices adopted as rules under
54 chapter 120 by the Department of Environmental Protection, the
55 Department of Agriculture and Consumer Services, or a water
56 management district as part of a statewide or regional program.

57 (a) When an activity of a farm operation takes place
58 within a wellfield protection area as defined in any wellfield
59 protection ordinance adopted by a county, and the implemented
60 best management practice, regulation, or interim measure does
61 not specifically address wellfield protection, a county may
62 regulate that activity pursuant to such ordinance. This
63 subsection does not limit the powers and duties provided for in
64 s. 373.4592 or limit the powers and duties of any county to
65 address an emergency as provided for in chapter 252.

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

71 (c) This subsection does not limit the powers of a
72 predominantly urbanized county with a population greater than
73 1,500,000 and more than 25 municipalities, not operating under a
74 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
75 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
76 VIII of the Constitution of 1968, which has a delegated
77 pollution control program under s. 403.182 and includes drainage
78 basins that are part of the Everglades Stormwater Program, to
79 enact ordinances, regulations, or other measures to comply with
80 the provisions of s. 373.4592, or which are necessary to
81 carrying out a county's duties pursuant to the terms and
82 conditions of any environmental program delegated to the county
83 by agreement with a state agency.

84 (d) For purposes of this subsection, a county ordinance
 85 that regulates the transportation or land application of
 86 domestic wastewater residuals or other forms of sewage sludge
 87 shall not be deemed to be duplication of regulation.

88 (e) This subsection does not limit a county's powers to
 89 enforce its applicable wetland protection ordinances,
 90 regulations, or rules adopted before January 1, 2009.

91 Section 2. Section 163.3163, Florida Statutes, is created
 92 to read:

93 163.3163 Applications for development permits; waiver of
 94 nuisance claims against neighboring agricultural land.--

95 (1) This section may be cited as the "Agricultural
 96 Nuisance Claim Waiver Act."

97 (2) The Legislature finds that nonagricultural land which
 98 neighbors agricultural land may adversely affect the
 99 agricultural production and farm operations of the agricultural
 100 land and may lead to the agricultural land's conversion to
 101 urban, suburban, or other nonagricultural uses. The purpose of
 102 this section is to give notice to an applicant for a local land
 103 use permit, building permit, or certificate of occupancy for
 104 nonagricultural land which neighbors agricultural land of the
 105 following before issuance of the permit or certificate:

106 (a) The state's support for preservation of agricultural
 107 land and farm operations; and

108 (b) The adverse effects of residing or operating a
 109 nonagricultural business on property that neighbors agricultural
 110 land and farm operations.

111 (3) As used in this section, the term:

112 (a) "Agricultural land" means land classified as
 113 agricultural land pursuant to s. 193.461.

114 (b) "Farm operation" has the same meaning as defined in s.
 115 823.14.

116 (4) (a) A political subdivision, before issuing a local
 117 land use permit, building permit, or certificate of occupancy
 118 for nonagricultural land located within 1,000 feet of
 119 agricultural land, shall require that, as a condition of issuing
 120 the permit or certificate, the applicant for the permit or
 121 certificate must sign and submit to the political subdivision a
 122 written waiver of nuisance claims against the neighboring
 123 agricultural land in substantially the following form:

124
 125 WAIVER OF NUISANCE CLAIMS

126 AGAINST NEIGHBORING AGRICULTURAL LAND

127
 128 I, ...(name of applicant)..., understand that my property
 129 located at ...(address of nonagricultural land)... is
 130 located within 1,000 feet of agricultural land located at
 131 ...(address of agricultural land)..., which is used for
 132 farm operations and may not be compatible with the
 133 intended use of my property.

134 I understand that, during any 24-hour period, farm
 135 operations on the agricultural land may cause adverse
 136 effects which result in discomfort or inconvenience for a
 137 person using my property.

138 I understand that these adverse effects may include,
 139 but are not limited to, noise, odors, fumes, dust, smoke,

140 burning, vibrations, insects, rodents, or the operation of
 141 machinery, including aircraft.

142 I understand that farm operations conducted according
 143 to accepted customs and standards and existing laws and
 144 regulations may cause these adverse effects.

145 I understand that a person who resides or operates a
 146 nonagricultural business on property that neighbors
 147 agricultural land should accept these adverse effects as a
 148 normal and necessary aspect of residing or working in a
 149 neighborhood with a strong rural character and an active
 150 agricultural sector.

151 I understand, and waive any objection to, the adverse
 152 effects to my property caused by farm operations on the
 153 agricultural land identified in this waiver.

154 I agree not to bring any claim against the owner of
 155 the agricultural land, or against ...(name of political
 156 subdivision)..., which asserts that any farm operation on
 157 the agricultural land is a nuisance.

158 Signature: ...(signature of applicant)....

159 Date: ...(date)....

160
 161 (b) A waiver of nuisance claims against neighboring
 162 agricultural land submitted to a political subdivision under
 163 paragraph (a) is a public record.

164 Section 3. Section 604.50, Florida Statutes, is amended to
 165 read:

166 604.50 Nonresidential farm buildings and farm
 167 fences.--Notwithstanding any other law to the contrary, any

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168 nonresidential farm building or farm fence is exempt from the
169 Florida Building Code and any county or municipal ~~building~~ code
170 or fee. For purposes of this section, the term "nonresidential
171 farm building" means any building or support structure that is
172 used for agricultural purposes, is located on a farm that is not
173 used as a residential dwelling, and is located on land that is
174 an integral part of a farm operation or is classified as
175 agricultural land under s. 193.461. The term "farm" is as
176 defined in s. 823.14.

177 Section 4. This act shall take effect July 1, 2009.