

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; allowing an assessment to be collected if
9 credits against the assessment are provided for
10 implementation of best-management practices; providing
11 exemptions from certain restrictions on a county's powers
12 over the activity on agricultural land; providing a
13 definition; creating s. 163.3163, F.S.; creating the
14 "Agricultural Land Acknowledgement Act"; providing
15 legislative findings and intent; providing definitions;
16 requiring an applicant for certain development permits to
17 sign and submit an acknowledgement of contiguous
18 agricultural land as a condition of the political
19 subdivision issuing the permits; specifying information to
20 be included in the acknowledgement; requiring that the
21 acknowledgement be recorded in the official county
22 records; amending s. 604.50, F.S.; exempting farm fences
23 from the Florida Building Code; exempting nonresidential
24 farm buildings and farm fences from county and municipal
25 codes and fees; specifying that the exemptions do not
26 apply to code provisions implementing certain floodplain
27 regulations; providing an effective date.
28

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

30

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

33 163.3162 Agricultural Lands and Practices Act.--

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

57 Protection, the Department of Agriculture and Consumer Services,
58 or a water management district as part of a statewide or
59 regional program. However, this subsection does not prohibit a
60 county from charging an assessment or fee for stormwater
61 management on a bona fide farm operation that does not have a
62 National Pollutant Discharge Elimination System permit,
63 environmental resource permit, or works-of-the-district permit,
64 or has not implemented water quality and quantity best-
65 management practices as described in this subsection. For those
66 counties that, before March 1, 2009, adopted a stormwater
67 utility ordinance, resolution, or municipal services benefit
68 unit or, before March 1, 2009, adopted a resolution stating its
69 intent to use the uniform method of collection pursuant to s.
70 197.3632 for such stormwater ordinances, the county may continue
71 to charge an assessment or fee for stormwater management on a
72 bona fide farm operation on land classified as agricultural
73 pursuant to s. 193.461 if the ordinance provides credits against
74 the assessment or fee on a bona fide farm operation for the
75 implementation of best-management practices adopted as rules
76 under chapter 120 by the Department of Environmental Protection,
77 the Department of Agriculture and Consumer Services, or a water
78 management district as part of a statewide or regional program,
79 or stormwater quality and quantity measures required as part of
80 a National Pollutant Discharge Elimination System permit,
81 environmental resource permit, or works-of-the-district permit
82 or implementation of best-management practices or alternative
83 measures which the landowner demonstrates to the county to be of
84 equivalent or greater stormwater benefit than those provided by

85 implementation of best-management practices adopted as rules
86 under chapter 120 by the Department of Environmental Protection,
87 the Department of Agriculture and Consumer Services, or a water
88 management district as part of a statewide or regional program,
89 or stormwater quality and quantity measures required as part of
90 a National Pollutant Discharge Elimination System permit,
91 environmental resource permit, or works-of-the-district permit.

92 (a) When an activity of a farm operation takes place
93 within a wellfield protection area as defined in any wellfield
94 protection ordinance adopted by a county, and the implemented
95 best management practice, regulation, or interim measure does
96 not specifically address wellfield protection, a county may
97 regulate that activity pursuant to such ordinance. This
98 subsection does not limit the powers and duties provided for in
99 s. 373.4592 or limit the powers and duties of any county to
100 address an emergency as provided for in chapter 252.

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

106 (c) This subsection does not limit the powers of a
107 predominantly urbanized county with a population greater than
108 1,500,000 and more than 25 municipalities, not operating under a
109 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
110 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
111 VIII of the Constitution of 1968, which has a delegated
112 pollution control program under s. 403.182 and includes drainage

113 basins that are part of the Everglades Stormwater Program, to
 114 enact ordinances, regulations, or other measures to comply with
 115 the provisions of s. 373.4592, or which are necessary to
 116 carrying out a county's duties pursuant to the terms and
 117 conditions of any environmental program delegated to the county
 118 by agreement with a state agency.

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

123 (e) This subsection does not limit a county's powers to:

124 1. Enforce its wetlands and springs protection ordinances,
 125 regulations, or rules adopted before January 1, 2009.

126 2. Implement the requirements of parts II and III of
 127 chapter 369 pertaining to the Wekiva River Protection Area.

128 3. Enforce ordinances, regulations, or rules as provided
 129 by law or implemented consistent with the requirements of a
 130 program operated under a delegation agreement from a state
 131 agency or water management district.

132
 133 As used in this paragraph, the term "wetlands" has the same
 134 meaning as defined in s. 373.019.

135 Section 2. Section 163.3163, Florida Statutes, is created
 136 to read:

137 163.3163 Applications for development permits; disclosure
 138 and acknowledgement of neighboring agricultural land.--

139 (1) This section may be cited as the "Agricultural Land
 140 Acknowledgement Act."

141 (2) The Legislature finds that nonagricultural land which
142 neighbors agricultural land may adversely affect agricultural
143 production and farm operations on the agricultural land and may
144 lead to the agricultural land's conversion to urban, suburban,
145 or other nonagricultural uses. The Legislature intends to
146 preserve and encourage agricultural land use and to reduce the
147 occurrence of conflicts between agricultural and nonagricultural
148 land uses. The purpose of this section is to ensure that
149 generally accepted agricultural practices will not be subject to
150 interference by residential use of land contiguous to
151 agricultural land.

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

153 (a) "Agricultural land" means land classified as
154 agricultural land pursuant to s. 193.461.

155 (b) "Contiguous" means touching, bordering, or adjoining
156 along a boundary. For purposes of this section, properties that
157 would be contiguous if not separated by a roadway, railroad, or
158 other public easement are considered contiguous.

159 (c) "Farm operation" has the same meaning as defined in s.
160 823.14.

161 (4) (a) Before a political subdivision issues a local land
162 use permit, building permit, or certificate of occupancy for
163 nonagricultural land contiguous to agricultural land, the
164 political subdivision shall require that, as a condition of
165 issuing the permit or certificate, the applicant for the permit
166 or certificate sign and submit to the political subdivision, in
167 a format that is recordable in the official records of the
168 county in which the political subdivision is located, a written

169 acknowledgement of contiguous agricultural land in the following
 170 form:

171
 172 ACKNOWLEDGEMENT OF CONTIGUOUS AGRICULTURAL LAND

173
 174 I, ...(name of applicant)..., understand that my property
 175 located at ...(address of nonagricultural land)..., as
 176 further described in the attached legal description, is
 177 contiguous to agricultural land located at ...(address of
 178 agricultural land)..., as further described in the
 179 attached legal description.

180 I acknowledge and understand that the farm operation
 181 on the contiguous agricultural land identified herein will
 182 be conducted according to generally accepted agricultural
 183 practices as provided in the Florida Right to Farm Act, s.
 184 823.14, Florida Statutes.

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

186 Date: ...(date)....

187
 188 (b) An acknowledgement submitted to a political
 189 subdivision under paragraph (a) shall be recorded in the
 190 official records of the county in which the political
 191 subdivision is located.

192 Section 3. Section 604.50, Florida Statutes, is amended to
 193 read:

194 604.50 Nonresidential farm buildings and farm
 195 fences.--Notwithstanding any other law to the contrary, any
 196 nonresidential farm building or farm fence is exempt from the

197 Florida Building Code and any county or municipal ~~building~~ code
198 or fee, except for code provisions implementing local, state, or
199 federal floodplain management regulations. For purposes of this
200 section, the term "nonresidential farm building" means any
201 building or support structure that is used for agricultural
202 purposes, is located on a farm that is not used as a residential
203 dwelling, and is located on land that is an integral part of a
204 farm operation or is classified as agricultural land under s.
205 193.461. The term "farm" is as defined in s. 823.14.

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

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