

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; providing for application; creating s.
14 163.3163, F.S.; creating the "Agricultural Land
15 Acknowledgement Act"; providing legislative findings and
16 intent; providing definitions; requiring an applicant for
17 certain development permits to sign and submit an
18 acknowledgement of contiguous agricultural land as a
19 condition of the political subdivision issuing the
20 permits; specifying information to be included in the
21 acknowledgement; requiring that the acknowledgement be
22 recorded in the official county records; amending s.
23 604.50, F.S.; exempting farm fences from the Florida
24 Building Code; exempting nonresidential farm buildings and
25 farm fences from county and municipal codes and fees;
26 specifying that the exemptions do not apply to code
27 provisions implementing certain floodplain regulations;
28 providing an effective date.

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

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

163.3162 Agricultural Lands and Practices Act.--

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

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

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

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

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

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

113 | pollution control program under s. 403.182 and includes drainage
 114 | basins that are part of the Everglades Stormwater Program, to
 115 | enact ordinances, regulations, or other measures to comply with
 116 | the provisions of s. 373.4592, or which are necessary to
 117 | carrying out a county's duties pursuant to the terms and
 118 | conditions of any environmental program delegated to the county
 119 | by agreement with a state agency.

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

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

125 | 1. Enforce wetlands, springs protection, or stormwater
 126 | ordinances, regulations, or rules adopted before January 15,
 127 | 2009.

128 | 2. Enforce wetlands, springs protection, or stormwater
 129 | ordinances, regulations, or rules pertaining to the Wekiva River
 130 | Protection Area.

131 | 3. Enforce ordinances, regulations, or rules as directed
 132 | by law or implemented consistent with the requirements of a
 133 | program operated under a delegation agreement from a state
 134 | agency or water management district.

135 |
 136 | As used in this paragraph, the term "wetlands" has the same
 137 | meaning as defined in s. 373.019.

138 | (f) The provisions of this subsection that limit a
 139 | county's authority to adopt or enforce any ordinance,
 140 | regulation, rule, or policy, or to charge any assessment or fee

141 for stormwater management, apply only to a bona fide farm
 142 operation as described in this subsection.

143 Section 2. Section 163.3163, Florida Statutes, is created
 144 to read:

145 163.3163 Applications for development permits; disclosure
 146 and acknowledgement of neighboring agricultural land.--

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

149 (2) The Legislature finds that nonagricultural land which
 150 neighbors agricultural land may adversely affect agricultural
 151 production and farm operations on the agricultural land and may
 152 lead to the agricultural land's conversion to urban, suburban,
 153 or other nonagricultural uses. The Legislature intends to
 154 preserve and encourage agricultural land use and to reduce the
 155 occurrence of conflicts between agricultural and nonagricultural
 156 land uses. The purpose of this section is to ensure that
 157 generally accepted agricultural practices will not be subject to
 158 interference by residential use of land contiguous to
 159 agricultural land.

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

161 (a) "Agricultural land" means land classified as
 162 agricultural land pursuant to s. 193.461.

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

167 (c) "Farm operation" has the same meaning as defined in s.
 168 823.14.

169 (4) (a) Before a political subdivision issues a local land
 170 use permit, building permit, or certificate of occupancy for
 171 nonagricultural land contiguous to agricultural land, the
 172 political subdivision shall require that, as a condition of
 173 issuing the permit or certificate, the applicant for the permit
 174 or certificate sign and submit to the political subdivision, in
 175 a format that is recordable in the official records of the
 176 county in which the political subdivision is located, a written
 177 acknowledgement of contiguous agricultural land in the following
 178 form:

180 ACKNOWLEDGEMENT OF CONTIGUOUS AGRICULTURAL LAND

181
 182 I, ...(name of applicant)..., understand that my property
 183 located at ...(address of nonagricultural land)..., as
 184 further described in the attached legal description, is
 185 contiguous to agricultural land located at ...(address of
 186 agricultural land)..., as further described in the
 187 attached legal description.

188 I acknowledge and understand that the farm operation
 189 on the contiguous agricultural land identified herein will
 190 be conducted according to generally accepted agricultural
 191 practices as provided in the Florida Right to Farm Act, s.
 192 823.14, Florida Statutes.

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

194 Date: ...(date)...

195
 196 (b) An acknowledgement submitted to a political

197 subdivision under paragraph (a) shall be recorded in the
198 official records of the county in which the political
199 subdivision is located.

200 Section 3. Section 604.50, Florida Statutes, is amended to
201 read:

202 604.50 Nonresidential farm buildings and farm
203 fences.--Notwithstanding any other law to the contrary, any
204 nonresidential farm building or farm fence is exempt from the
205 Florida Building Code and any county or municipal ~~building~~ code
206 or fee, except for code provisions implementing local, state, or
207 federal floodplain management regulations. For purposes of this
208 section, the term "nonresidential farm building" means any
209 building or support structure that is used for agricultural
210 purposes, is located on a farm that is not used as a residential
211 dwelling, and is located on land that is an integral part of a
212 farm operation or is classified as agricultural land under s.
213 193.461. The term "farm" is as defined in s. 823.14.

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