

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Poppell offered the following:

2
3 **Substitute Amendment for Amendment (322707) (with title**
4 **amendment)**

5 Remove line 203 and insert:

6 Section 9. Subsection (4) of section 163.3162, Florida
7 Statutes, is amended to read:

8 163.3162 Agricultural Lands and Practices Act.--

9 (4) DUPLICATION OF REGULATION.--Except as otherwise
10 provided in this section and s. 487.051(2), and notwithstanding
11 any other law, including any provision of chapter 125 or this
12 chapter, a county may not exercise any of its powers to adopt or
13 enforce any ordinance, resolution, regulation, rule, or policy
14 to prohibit, restrict, regulate, or otherwise limit an activity
15 of a bona fide farm operation on land classified as agricultural
16 land pursuant to s. 193.461, if such activity is regulated

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17 through implemented best management practices, interim measures,
18 or regulations adopted as rules under chapter 120 ~~developed~~ by
19 the Department of Environmental Protection, the Department of
20 Agriculture and Consumer Services, or a water management
21 district ~~and adopted under chapter 120~~ as part of a statewide or
22 regional program; or if such activity is expressly regulated by
23 the United States Department of Agriculture, the United States
24 Army Corps of Engineers, or the United States Environmental
25 Protection Agency. A county may not charge an assessment or fee
26 for stormwater management on a bona fide farm operation on land
27 classified as agricultural land pursuant to s. 193.461, if the
28 farm operation has a National Pollutant Discharge Elimination
29 System permit, environmental resource permit, or works-of-the-
30 district permit or implements best management practices adopted
31 as rules under chapter 120 by the Department of Environmental
32 Protection, the Department of Agriculture and Consumer Services,
33 or a water management district as part of a statewide or
34 regional program. However, this subsection does not prohibit a
35 county from charging an assessment or fee for stormwater
36 management on a bona fide farm operation that does not have a
37 National Pollutant Discharge Elimination System permit,
38 environmental resource permit, or works-of-the-district permit,
39 or has not implemented water quality and quantity best-
40 management practices as described in this subsection. For those
41 counties that, before March 1, 2009, adopted a stormwater
42 utility ordinance, resolution, or municipal services benefit
43 unit or, before March 1, 2009, adopted a resolution stating its
44 intent to use the uniform method of collection pursuant to s.
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45 197.3632 for such stormwater ordinances, the county may continue
46 to charge an assessment or fee for stormwater management on a
47 bona fide farm operation on land classified as agricultural
48 pursuant to s. 193.461 if the ordinance provides credits against
49 the assessment or fee on a bona fide farm operation for the
50 implementation of best-management practices adopted as rules
51 under chapter 120 by the Department of Environmental Protection,
52 the Department of Agriculture and Consumer Services, or a water
53 management district as part of a statewide or regional program,
54 or stormwater quality and quantity measures required as part of
55 a National Pollutant Discharge Elimination System permit,
56 environmental resource permit, or works-of-the-district permit
57 or implementation of best-management practices or alternative
58 measures which the landowner demonstrates to the county to be of
59 equivalent or greater stormwater benefit than those provided by
60 implementation of best-management practices adopted as rules
61 under chapter 120 by the Department of Environmental Protection,
62 the Department of Agriculture and Consumer Services, or a water
63 management district as part of a statewide or regional program,
64 or stormwater quality and quantity measures required as part of
65 a National Pollutant Discharge Elimination System permit,
66 environmental resource permit, or works-of-the-district permit.

67 (a) When an activity of a farm operation takes place
68 within a wellfield protection area as defined in any wellfield
69 protection ordinance adopted by a county, and the implemented
70 best management practice, regulation, or interim measure does
71 not specifically address wellfield protection, a county may
72 regulate that activity pursuant to such ordinance. This

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73 subsection does not limit the powers and duties provided for in
74 s. 373.4592 or limit the powers and duties of any county to
75 address an emergency as provided for in chapter 252.

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

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

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

98 (e) This subsection does not limit a county's powers to
99 enforce its wetlands and springs protection ordinances,
100 regulations, or rules adopted before January 1, 2009. As used in
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101 this section, the term "wetlands" has the same meaning as
102 defined in s. 373.019.

103 Section 10. Section 163.3163, Florida Statutes, is created
104 to read:

105 163.3163 Applications for development permits; disclosure
106 and acknowledgement of neighboring agricultural land.--

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

109 (2) The Legislature finds that nonagricultural land which
110 neighbors agricultural land may adversely affect agricultural
111 production and farm operations on the agricultural land and may
112 lead to the agricultural land's conversion to urban, suburban,
113 or other nonagricultural uses. The Legislature intends to
114 preserve and encourage agricultural land use and to reduce the
115 occurrence of conflicts between agricultural and nonagricultural
116 land uses. The purpose of this section is to give notice to a
117 residential land purchaser before the contract for sale, or to
118 an applicant for a local land use permit, building permit, or
119 certificate of occupancy before issuance of a permit or
120 certificate, that the land neighbors agricultural land and that
121 certain generally accepted agricultural practices will take
122 place.

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

124 (a) "Agricultural land" means land classified as
125 agricultural land pursuant to s. 193.461.

126 (b) "Contiguous" means touching, bordering, or adjoining
127 along a boundary. For purposes of this section, properties

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128 separated only by a roadway, railroad, or other public easement
129 are considered contiguous.

130 (c) "Farm operation" has the same meaning as defined in s.
131 823.14.

132 (4) (a) Before a political subdivision issues a local land
133 use permit, building permit, or certificate of occupancy for
134 nonagricultural land contiguous to agricultural land, the
135 political subdivision shall require that, as a condition of
136 issuing the permit or certificate, the applicant for the permit
137 or certificate sign and submit to the political subdivision a
138 written acknowledgement of neighboring agricultural land in the
139 following form:

140
141 ACKNOWLEDGEMENT OF NEIGHBORING AGRICULTURAL LAND

142
143 I, ...(name of applicant)..., understand that my property
144 located at ...(address of nonagricultural land)... is
145 contiguous to agricultural land located at ...(address of
146 agricultural land)....

147 I acknowledge and understand that the farm operation
148 on the neighboring agricultural land identified herein
149 will be conducted according to generally accepted
150 agricultural practices as provided in the Florida Right to
151 Farm Act, s. 823.14, Florida Statutes.

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

153 Date: ...(date)....
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155 (b) An acknowledgement submitted to a political
156 subdivision under paragraph (a) is a public record and shall be
157 maintained by the political subdivision as a permanent record.

158 Section 11. Section 604.50, Florida Statutes, is amended
159 to read:

160 604.50 Nonresidential farm buildings and farm
161 fences.--Notwithstanding any other law to the contrary, any
162 nonresidential farm building or farm fence is exempt from the
163 Florida Building Code and any county or municipal building code
164 or fee, except for code provisions implementing local, state, or
165 federal floodplain management regulations. For purposes of this
166 section, the term "nonresidential farm building" means any
167 building or support structure that is used for agricultural
168 purposes, is located on a farm that is not used as a residential
169 dwelling, and is located on land that is an integral part of a
170 farm operation or is classified as agricultural land under s.
171 193.461. The term "farm" is as defined in s. 823.14.

172 Section 12. Effective January 1, 2010, subsection (3) is
173 added to section 689.261, Florida Statutes, to read:

174 689.261 Sale of residential property; disclosure of ad
175 valorem taxes and neighboring agricultural land to prospective
176 purchaser.--

177 (3) (a) A prospective purchaser of residential property
178 contiguous to agricultural land must be presented with a written
179 acknowledgement of neighboring agricultural land on or before
180 execution of the contract for sale unless the acknowledgement is
181 included in the contract. The acknowledgement, whether included

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182 in the contract for sale or presented as a separate document,
183 must be in substantially the following form:

184
185 ACKNOWLEDGEMENT OF NEIGHBORING AGRICULTURAL LAND

186
187 I, ...(name of purchaser)... understand that my property
188 located at ...(address of residential property being
189 purchased)... is contiguous to agricultural land located
190 at ...(address of agricultural land)....

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

196 Signature: ...(signature of purchaser)

197 Date: ... (date)

198
199 (b) The acknowledgment must include a signature line for
200 each purchaser only if the acknowledgement is presented as a
201 separate document from the contract for sale.

202 Section 13. Except as otherwise expressly provided in this
203 act, this act shall take effect July 1, 2009.

204
205 -----
206 **T I T L E A M E N D M E N T**

207 Remove line 35 and insert:
208 limitations on open burning; amending s. 163.3162, F.S.;
209 prohibiting a county from enforcing certain limits on the
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210 activity of a bona fide farm operation on agricultural land
211 under certain circumstances; prohibiting a county from charging
212 agricultural lands for stormwater management assessments and
213 fees under certain circumstances; allowing an assessment to be
214 collected if credits against the assessment are provided for
215 implementation of best-management practices; exempting certain
216 wetlands and springs protection ordinances, regulations, and
217 rules adopted before a specified date from provisions
218 restricting a county's powers over the activity on agricultural
219 land; creating s. 163.3163, F.S.; creating the "Agricultural
220 Land Acknowledgement Act"; providing legislative findings and
221 intent; providing definitions; requiring an applicant for
222 certain development permits to sign and submit an
223 acknowledgement of neighboring agricultural land as a condition
224 of the political subdivision issuing the permits; specifying
225 information to be included in the acknowledgement; requiring
226 that the acknowledgement be permanently maintained as a public
227 record; amending s. 604.50, F.S.; exempting farm fences from the
228 Florida Building Code; exempting nonresidential farm buildings
229 and farm fences from county and municipal codes and fees;
230 specifying that the exemptions do not apply to code provisions
231 implementing certain floodplain regulations; amending s.
232 689.261, F.S.; requiring prospective purchasers of certain
233 residential property to be presented with a written
234 acknowledgement of neighboring agricultural land on or before
235 execution of the contract for sale unless the acknowledgement is
236 included in the contract; specifying information to be included
237 in the acknowledgement; providing effective dates.

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