

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Poppell offered the following:

2
3 **Amendment (with title amendment)**

4 Remove line 203 and insert:

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

7 163.3162 Agricultural Lands and Practices Act.--

8 (4) DUPLICATION OF REGULATION.--Except as otherwise
9 provided in this section and s. 487.051(2), and notwithstanding
10 any other law, including any provision of chapter 125 or this
11 chapter, a county may not exercise any of its powers to adopt or
12 enforce any ordinance, resolution, regulation, rule, or policy
13 to prohibit, restrict, regulate, or otherwise limit an activity
14 of a bona fide farm operation on land classified as agricultural
15 land pursuant to s. 193.461, if such activity is regulated
16 through implemented best management practices, interim measures,
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17 or regulations adopted as rules under chapter 120 ~~developed~~ by
18 the Department of Environmental Protection, the Department of
19 Agriculture and Consumer Services, or a water management
20 district ~~and adopted under chapter 120~~ as part of a statewide or
21 regional program; or if such activity is expressly regulated by
22 the United States Department of Agriculture, the United States
23 Army Corps of Engineers, or the United States Environmental
24 Protection Agency. A county may not charge an assessment or fee
25 for stormwater management on a bona fide farm operation on land
26 classified as agricultural land pursuant to s. 193.461, if the
27 farm operation has a National Pollutant Discharge Elimination
28 System permit, environmental resource permit, or works-of-the-
29 district permit or implements best management practices adopted
30 as rules under chapter 120 by the Department of Environmental
31 Protection, the Department of Agriculture and Consumer Services,
32 or a water management district as part of a statewide or
33 regional program. However, this subsection does not prohibit a
34 county from charging an assessment or fee for stormwater
35 management on a bona fide farm operation that does not have a
36 National Pollutant Discharge Elimination System permit,
37 environmental resource permit or works-of-the-district permit,
38 or has not implemented water quality and quantity best-
39 management practices as described in this subsection. For those
40 counties that, before March 1, 2009, adopted a stormwater
41 utility ordinance, resolution, or municipal services benefit
42 unit or, before March 1, 2009, adopted a resolution stating its
43 intent to use the uniform method of collection pursuant to s.
44 197.3632 for such stormwater ordinances, the county may continue

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45 to charge an assessment or fee for stormwater management on a
46 bona fide farm operation on land classified as agricultural
47 pursuant to s. 193.461 if the ordinance provides credits against
48 the assessment or fee on a bona fide farm operation for the
49 implementation of best-management practices adopted as rules
50 under chapter 120 by the Department of Environmental Protection,
51 the Department of Agriculture and Consumer Services, or a water
52 management district as part of a statewide or regional program,
53 or stormwater quality and quantity measures required as part of
54 a National Pollutant Discharge Elimination System permit,
55 environmental resource permit, or works-of-the-district permit,
56 or implementation of best-management practices or alternative
57 measures which the landowner demonstrates to the county to be of
58 equivalent or greater stormwater benefit than those provided by
59 implementation of best-management practices adopted as rules
60 under chapter 120 by the Department of Environmental Protection,
61 the Department of Agriculture and Consumer Services, or a water
62 management district as part of a statewide or regional program,
63 or stormwater quality and quantity measures required as part of
64 a National Pollutant Discharge Elimination System permit,
65 environmental resource permit, or works-of-the-district permit.

66 (a) When an activity of a farm operation takes place
67 within a wellfield protection area as defined in any wellfield
68 protection ordinance adopted by a county, and the implemented
69 best management practice, regulation, or interim measure does
70 not specifically address wellfield protection, a county may
71 regulate that activity pursuant to such ordinance. This
72 subsection does not limit the powers and duties provided for in
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73 s. 373.4592 or limit the powers and duties of any county to
74 address an emergency as provided for in chapter 252.

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

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

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

97 (e) This subsection does not limit a county's powers to
98 enforce its wetlands and springs protection ordinances,
99 regulations, or rules adopted before January 1, 2009. As used in

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100 this section, the term "wetlands" has the same meaning as
101 defined in s. 373.019.

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

104 163.3163 Applications for development permits; disclosure
105 and acknowledgement of neighboring agricultural land.--

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

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

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

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

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

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

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

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

139
140 ACKNOWLEDGEMENT OF NEIGHBORING AGRICULTURAL LAND

141
142 I, ...(name of applicant)..., understand that my property
143 located at ...(address of nonagricultural land)... is
144 contiguous to agricultural land located at ...(address of
145 agricultural land)....

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

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

152 Date: ...(date)....

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

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

159 604.50 Nonresidential farm buildings and farm
160 fences.--Notwithstanding any other law to the contrary, any
161 nonresidential farm building or farm fence is exempt from the
162 Florida Building Code and any county or municipal ~~building~~ code
163 or fee, except for code provisions implementing local, state, or
164 federal floodplain management regulations. For purposes of this
165 section, the term "nonresidential farm building" means any
166 building or support structure that is used for agricultural
167 purposes, is located on a farm that is not used as a residential
168 dwelling, and is located on land that is an integral part of a
169 farm operation or is classified as agricultural land under s.
170 193.461. The term "farm" is as defined in s. 823.14.

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

173 689.261 Sale of residential property; disclosure of ad
174 valorem taxes and neighboring agricultural land to prospective
175 purchaser.--

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

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182 included in the contract, the acknowledgement must be in
183 substantially the following form:

185 ACKNOWLEDGEMENT OF NEIGHBORING AGRICULTURAL LAND

187 I, (insert purchaser or purchaser's names) understand that
188 my property located at (address of residential property being
189 purchased) is contiguous to agricultural land located at
190 (address of agricultural land). I acknowledge and understand
191 that the farm operation on the neighboring agricultural land
192 identified herein will be conducted according to generally
193 accepted agricultural practices as provided in the Florida Right
194 to Farm Act, s. 823.14, Florida Statutes."

195 Signature: ... (signature of purchaser or purchasers)
196 Date: ... (date)

198 (b) The acknowledgment must include the signature line
199 only if it is provided in a separate disclosure form.

200 (c) A signature line shall also be included for the
201 acknowledgement of receipt of the disclosure if a separate
202 disclosure form is used and the form is not included in the
203 contract for sale.

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

207 -----
208 **T I T L E A M E N D M E N T**

209 Remove line 35 and insert:

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HOUSE AMENDMENT

Bill No. CS/CS/HB 1241

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

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238 is included in contract for sale; specifying information to be
239 included in acknowledgement; providing effective dates.

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