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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/31/2009	.	
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The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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12 any ordinance, resolution, regulation, rule, or policy to
13 prohibit, restrict, regulate, or otherwise limit an activity of
14 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,
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 land classified as agricultural
26 land pursuant to s. 193.461 if the agricultural operation has a
27 National Pollutant Discharge Elimination System permit,
28 environmental resource permit, or works-of-the-district permit
29 or implements best-management practices adopted as rules under
30 chapter 120 by the Department of Environmental Protection, the
31 Department of Agriculture and Consumer Services, or a water
32 management district as part of a statewide or regional program.

33 (a) When an activity of a farm operation takes place within
34 a wellfield protection area as defined in any wellfield
35 protection ordinance adopted by a county, and the implemented
36 best management practice, regulation, or interim measure does
37 not specifically address wellfield protection, a county may
38 regulate that activity pursuant to such ordinance. This
39 subsection does not limit the powers and duties provided for in
40 s. 373.4592 or limit the powers and duties of any county to



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41 address an emergency as provided for in chapter 252.

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

47 (c) This subsection does not limit the powers of a
48 predominantly urbanized county with a population greater than
49 1,500,000 and more than 25 municipalities, not operating under a
50 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
51 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
52 VIII of the Constitution of 1968, which has a delegated
53 pollution control program under s. 403.182 and includes drainage
54 basins that are part of the Everglades Stormwater Program, to
55 enact ordinances, regulations, or other measures to comply with
56 the provisions of s. 373.4592, or which are necessary to
57 carrying out a county's duties pursuant to the terms and
58 conditions of any environmental program delegated to the county
59 by agreement with a state agency.

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

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

67 Section 2. Section 163.3163, Florida Statutes, is created
68 to read:

69 163.3163 Applications for development permits; disclosure



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70 of neighboring agricultural land.-

71 (1) This section may be cited as the "Agricultural Land
72 Acknowledgment Act."

73 (2) The Legislature finds that nonagricultural land that
74 adjoins agricultural land may adversely affect agricultural
75 production and farm operations on agricultural land and may lead
76 to the agricultural land's conversion to urban, suburban, or
77 other nonagricultural uses. It is the intent of the Legislature
78 to give notice to preserve and encourage agricultural land use
79 and to reduce the occurrence of conflicts between agricultural
80 and nonagricultural land uses. The purpose of this section is to
81 give notice to a residential land buyer before entering into the
82 contract for sale, or to an applicant for a local land use
83 permit, building permit, or certificate of occupancy before
84 issuance of a permit or certificate, that the land is adjacent
85 to or near agricultural land and that certain generally accepted
86 agricultural practices will take place.

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

88 (a) "Agricultural land" means land classified as
89 agricultural land pursuant to s. 193.461.

90 (b) "Farm operation" has the same meaning as in s. 823.14.

91 (4) (a) A political subdivision, before issuing a local land
92 use permit, building permit, or certificate of occupancy for
93 nonagricultural land located contiguous to agricultural land,
94 shall require that, as a condition of issuing the permit or
95 certificate, the applicant for the permit or certificate must
96 sign and submit to the political subdivision a written
97 acknowledgment of neighboring agricultural land in the following
98 form:



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99
100 ACKNOWLEDGMENT OF
101 NEIGHBORING AGRICULTURAL LAND
102

103 I, ...(name of applicant)..., understand that my property
104 located at ...(address of nonagricultural land)... is located
105 contiguous to agricultural land located at ...(address of
106 agricultural land).

107 I also hereby acknowledge and understand that the farm
108 operation on the neighboring agricultural land identified herein
109 will be conducted according to generally accepted agricultural
110 practices as described in s. 823.14, Florida's "Right to Farm
111 Act."

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

113 Date: ...(date)....
114

115 (b) The acknowledgment submitted to a political subdivision
116 under paragraph (a) is a public record to be maintained as a
117 permanent record by such political subdivision.

118 Section 3. Section 604.50, Florida Statutes, is amended to
119 read:

120 604.50 Nonresidential farm buildings and farm fences.-
121 Notwithstanding any other law to the contrary, any
122 nonresidential farm building or farm fence is exempt from the
123 Florida Building Code and any county or municipal ~~building~~ code
124 or fee. For purposes of this section, the term "nonresidential
125 farm building" means any building or support structure that is
126 used for agricultural purposes, is located on a farm that is not
127 used as a residential dwelling, and is located on land that is



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128 an integral part of a farm operation or is classified as
129 agricultural land under s. 193.461. The term "farm" is as
130 defined in s. 823.14.

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

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133

134 ===== T I T L E A M E N D M E N T =====

135 And the title is amended as follows:

136 Delete everything before the enacting clause
137 and insert:

138 A bill to be entitled

139 An act relating to agriculture; amending s. 163.3162,
140 F.S.; prohibiting a county from enforcing certain
141 limits on the activity of a bona fide farm operation
142 on agricultural land under certain circumstances;
143 prohibiting a county from charging agricultural lands
144 for stormwater management assessments and fees under
145 certain circumstances; exempting certain wetland
146 protection ordinances, regulations, and rules adopted
147 before a specified date from provisions restricting a
148 county's powers over the activity on agricultural
149 land; creating s. 163.3163, F.S.; creating the
150 "Agricultural Land Acknowledgment Act"; providing a
151 short title; providing legislative findings and
152 intent; defining the terms "agricultural land" and
153 "farm operation"; requiring that an applicant for
154 certain development permits or a certificate of
155 occupancy sign and submit to a political subdivision a
156 written acknowledgment of neighboring agricultural



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157 land as a condition of the political subdivision
158 issuing the permits or a certificate; specifying a
159 form for such acknowledgment; providing that such
160 acknowledgment is a public record; requiring that a
161 political subdivision retain such acknowledgment as a
162 permanent record; amending s. 604.50, F.S.; exempting
163 farm fences from the Florida Building Code; exempting
164 nonresidential farm buildings and farm fences from
165 county and municipal codes and fees; providing an
166 effective date.