

By Senator Bennett

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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
4 limits on the activity of a bona fide farm operation
5 on agricultural land under certain circumstances;
6 prohibiting a county from charging agricultural lands
7 for stormwater management assessments and fees under
8 certain circumstances; exempting certain wetland
9 protection ordinances, regulations, and rules adopted
10 before a specified date from provisions restricting a
11 county's powers over the activity on agricultural
12 land; creating s. 163.3163, F.S.; creating the
13 "Agricultural Nuisance Claim Waiver Act"; providing a
14 short title; providing legislative findings and
15 intent; defining the terms "agricultural land" and
16 "farm operation"; requiring an applicant for certain
17 development permits to sign and submit to a political
18 subdivision a waiver of certain nuisance claims
19 against neighboring agricultural land as a condition
20 of the political subdivision issuing the permits;
21 specifying information to be included in the waiver;
22 providing that a waiver is a public record; amending
23 s. 604.50, F.S.; exempting farm fences from the
24 Florida Building Code; exempting nonresidential farm
25 buildings and farm fences from county and municipal
26 codes and fees; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsection (4) of section 163.3162, Florida
31 Statutes, is amended to read:

32 163.3162 Agricultural Lands and Practices Act.—

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

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59 operation through its permitted stormwater management system or
60 implementation of the best management practices.

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

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

75 (c) This subsection does not limit the powers of a
76 predominantly urbanized county with a population greater than
77 1,500,000 and more than 25 municipalities, not operating under a
78 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
79 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
80 VIII of the Constitution of 1968, which has a delegated
81 pollution control program under s. 403.182 and includes drainage
82 basins that are part of the Everglades Stormwater Program, to
83 enact ordinances, regulations, or other measures to comply with
84 the provisions of s. 373.4592, or which are necessary to
85 carrying out a county's duties pursuant to the terms and
86 conditions of any environmental program delegated to the county
87 by agreement with a state agency.

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

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

95 Section 2. Section 163.3163, Florida Statutes, is created
96 to read:

97 163.3163 Applications for development permits; waiver of
98 nuisance claims against neighboring agricultural land.—

99 (1) This section may be cited as the "Agricultural Nuisance
100 Claim Waiver Act."

101 (2) The Legislature finds that nonagricultural land which
102 neighbors agricultural land may adversely affect the
103 agricultural production and farm operations of the agricultural
104 land and may lead to the agricultural land's conversion to
105 urban, suburban, or other nonagricultural uses. The purpose of
106 this section is to give notice to an applicant for a local land
107 use permit, building permit, or certificate of occupancy for
108 nonagricultural land which neighbors agricultural land of the
109 following before issuance of the permit or certificate:

110 (a) The state's support for preservation of agricultural
111 land and farm operations; and

112 (b) The adverse effects of residing or operating a
113 nonagricultural business on property that neighbors agricultural
114 land and farm operations.

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

116 (a) "Agricultural land" means land classified as

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117 agricultural land pursuant to s. 193.461.

118 (b) "Farm operation" has the same meaning as defined in s.
119 823.14.

120 (4) (a) A political subdivision, before issuing a local land
121 use permit, building permit, or certificate of occupancy for
122 nonagricultural land located within 1,000 feet of agricultural
123 land, shall require that, as a condition of issuing the permit
124 or certificate, the applicant for the permit or certificate must
125 sign and submit to the political subdivision a written waiver of
126 nuisance claims against the neighboring agricultural land in
127 substantially the following form:

128
129 WAIVER OF NUISANCE CLAIMS

130 AGAINST NEIGHBORING AGRICULTURAL LAND

131
132 I, ...(name of applicant)..., understand that my property
133 located at ...(address of nonagricultural land)... is located
134 within 1,000 feet of agricultural land located at ...(address of
135 agricultural land)..., which is used for farm operations and may
136 not be compatible with the intended use of my property.

137 I understand that, during any 24-hour period, farm
138 operations on the agricultural land may cause adverse effects
139 which result in discomfort or inconvenience for a person using
140 my property.

141 I understand that these adverse effects may include, but
142 are not limited to, noise, odors, fumes, dust, smoke, burning,
143 vibrations, insects, rodents, or the operation of machinery,
144 including aircraft.

145 I understand that farm operations conducted according to

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146 accepted customs and standards and existing laws and regulations
 147 may cause these adverse effects.

148 I understand that a person who resides or operates a
 149 nonagricultural business on property that neighbors agricultural
 150 land should accept these adverse effects as a normal and
 151 necessary aspect of residing or working in a neighborhood with a
 152 strong rural character and an active agricultural sector.

153 I understand, and waive any objection to, the adverse
 154 effects to my property caused by farm operations on the
 155 agricultural land identified in this waiver.

156 I agree not to bring any claim against the owner of the
 157 agricultural land, or against ...(name of political
 158 subdivision)..., which asserts that any farm operation on the
 159 agricultural land is a nuisance.

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

161 Date: ...(date)....

162
 163 (b) A waiver of nuisance claims against neighboring
 164 agricultural land submitted to a political subdivision under
 165 paragraph (a) is a public record.

166 Section 3. Section 604.50, Florida Statutes, is amended to
 167 read:

168 604.50 Nonresidential farm buildings and farm fences.—
 169 Notwithstanding any other law to the contrary, any
 170 nonresidential farm building or farm fence is exempt from the
 171 Florida Building Code and any county or municipal ~~building~~ code
 172 or fee. For purposes of this section, the term "nonresidential
 173 farm building" means any building or support structure that is
 174 used for agricultural purposes, is located on a farm that is not

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175 used as a residential dwelling, and is located on land that is
176 an integral part of a farm operation or is classified as
177 agricultural land under s. 193.461. The term "farm" is as
178 defined in s. 823.14.

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