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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2010	.	
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The Committee on Agriculture (Peaden) 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) 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



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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,
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.

25 (b) A county may not charge an assessment or fee for
26 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.

35 (c) For each county that, before March 1, 2009, adopted a
36 stormwater utility ordinance or resolution, adopted an ordinance
37 or resolution establishing a municipal services benefit unit, or
38 adopted a resolution stating the county's intent to use the
39 uniform method of collection pursuant to s. 197.3632 for such
40 stormwater ordinances, the county may continue to charge an
41 assessment or fee for stormwater management on a bona fide farm
42 operation on land classified as agricultural pursuant to s.



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43 193.461, if the ordinance or resolution provides credits against
44 the assessment or fee on a bona fide farm operation for:

45 1. The implementation of best management practices adopted
46 as rules under chapter 120 by the Department of Environmental
47 Protection, the Department of Agriculture and Consumer Services,
48 or a water management district as part of a statewide or
49 regional program;

50 2. The stormwater quality and quantity measures required as
51 part of a National Pollutant Discharge Elimination System
52 permit, environmental resource permit, or works-of-the-district
53 permit; or

54 3. The implementation of best management practices or
55 alternative measures that the landowner demonstrates to the
56 county to be of equivalent or greater stormwater benefit than
57 those provided by implementation of best management practices
58 adopted as rules under chapter 120 by the Department of
59 Environmental Protection, the Department of Agriculture and
60 Consumer Services, or a water management district as part of a
61 statewide or regional program, or stormwater quality and
62 quantity measures required as part of a National Pollutant
63 Discharge Elimination System permit, environmental resource
64 permit, or works-of-the-district permit.

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



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72 s. 373.4592 or limit the powers and duties of any county to
73 address an emergency as provided for in chapter 252.

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

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

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

96 (h) This subsection does not limit a county's powers to:

97 1. Enforce wetlands, springs protection, or stormwater
98 ordinances, regulations, or rules adopted before July 1, 2003.

99 2. Enforce wetlands, springs protection, or stormwater
100 ordinances, regulations, or rules pertaining to the Wekiva River



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101 Protection Area.

102 3. Enforce ordinances, regulations, or rules as directed by
103 law or implemented consistent with the requirements of a program
104 operated under a delegation agreement from a state agency or
105 water management district.

106
107 As used in this paragraph, the term "wetlands" has the same
108 meaning as defined in s. 373.019.

109 (i) The provisions of this subsection that limit a county's
110 authority to adopt or enforce any ordinance, regulation, rule,
111 or policy, or to charge any assessment or fee for stormwater
112 management, apply only to a bona fide farm operation as
113 described in this subsection.

114 (j) This subsection does not apply to a municipal services
115 benefit unit established before March 1, 2009, pursuant to s.
116 125.01(1)(q), predominately for flood control or water supply
117 benefits.

118 Section 2. Section 163.3163, Florida Statutes, is created
119 to read:

120 163.3163 Applications for development permits; disclosure
121 and acknowledgement of contiguous sustainable agricultural
122 land.—

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

125 (2) The Legislature finds that nonagricultural land that
126 neighbors agricultural land may adversely affect agricultural
127 production and farm operations on the agricultural land and may
128 lead to the agricultural land's conversion to urban, suburban,
129 or other nonagricultural uses. The Legislature intends to reduce



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130 the occurrence of conflicts between agricultural and
131 nonagricultural land uses and encourage sustainable agricultural
132 land use. The purpose of this section is to ensure that
133 generally accepted agricultural practices will not be subject to
134 interference by residential use of land contiguous to
135 sustainable agricultural land.

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

137 (a) "Contiguous" means touching, bordering, or adjoining
138 along a boundary. For purposes of this section, properties that
139 would be contiguous if not separated by a roadway, railroad, or
140 other public easement are considered contiguous.

141 (b) "Farm operation" has the same meaning as defined in s.
142 823.14.

143 (c) "Sustainable agricultural land" means land classified
144 as agricultural land pursuant to s. 193.461 which is used for a
145 farm operation that uses current technology, based on science or
146 research and demonstrated measurable increases in productivity,
147 to meet future food, feed, fiber, and energy needs, while
148 considering the environmental impacts and the social and
149 economic benefits to the rural communities.

150 (4) (a) Before a political subdivision issues a local land
151 use permit, building permit, or certificate of occupancy for
152 nonagricultural land contiguous to sustainable agricultural
153 land, the political subdivision shall require that, as a
154 condition of issuing the permit or certificate, the applicant
155 for the permit or certificate sign and submit to the political
156 subdivision, in a format that is recordable in the official
157 records of the county in which the political subdivision is
158 located, a written acknowledgement of contiguous sustainable



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159 agricultural land in the following form:

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161 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

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163 I, ...(name of applicant)..., understand that my property
164 located at ...(address of nonagricultural land)..., as further
165 described in the attached legal description, is contiguous to
166 sustainable agricultural land located at ...(address of
167 agricultural land)..., as further described in the attached
168 legal description.

169 I acknowledge and understand that the farm operation on the
170 contiguous sustainable agricultural land identified herein will
171 be conducted according to generally accepted agricultural
172 practices as provided in the Florida Right to Farm Act, s.
173 823.14, Florida Statutes.

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

175 Date: ...(date)....

176

177 (b) An acknowledgement submitted to a political subdivision
178 under paragraph (a) shall be recorded in the official records of
179 the county in which the political subdivision is located.

180 (c) The Department of Agriculture and Consumer Services, in
181 cooperation with the Department of Revenue, may adopt rules to
182 administer this section.

183 Section 3. Subsection (1) of section 205.064, Florida
184 Statutes, is amended to read:

185 205.064 Farm, aquacultural, grove, horticultural,
186 floricultural, tropical piscicultural, and tropical fish farm
187 products; certain exemptions.-



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188 (1) A local business tax receipt is not required of any
189 ~~natural~~ person for the privilege of engaging in the selling of
190 farm, aquacultural, grove, horticultural, floricultural,
191 tropical piscicultural, or tropical fish farm products, or
192 products manufactured therefrom, except intoxicating liquors,
193 wine, or beer, when such products were grown or produced by such
194 ~~natural~~ person in the state.

195 Section 4. Subsection (20) of section 322.01, Florida
196 Statutes, is amended to read:

197 322.01 Definitions.—As used in this chapter:

198 (20) "Farm tractor" means a motor vehicle that is:

199 (a) Operated principally on a farm, grove, or orchard in
200 agricultural or horticultural pursuits and that is operated on
201 the roads of this state only incidentally to transportation
202 between the owner's or operator's headquarters and the farm,
203 grove, or orchard or between one farm, grove, or orchard and
204 another; or

205 (b) Designed and used primarily as a farm implement for
206 drawing plows, mowing machines, and other implements of
207 husbandry.

208 Section 5. Subsection (1) of section 604.15, Florida
209 Statutes, is amended to read:

210 604.15 Dealers in agricultural products; definitions.—For
211 the purpose of ss. 604.15-604.34, the following words and terms,
212 when used, shall be construed to mean:

213 (1) "Agricultural products" means the natural products of
214 the farm, nursery, grove, orchard, vineyard, garden, and apiary
215 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
216 livestock; milk and milk products; poultry and poultry products;



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217 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
218 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
219 Persian, Tahiti, Bearss, or Florida Key limes); and any other
220 nonexempt agricultural products produced in the state, except
221 tobacco, sugarcane, tropical foliage, timber and timber
222 byproducts, forest products as defined in s. 591.17, and citrus
223 other than limes.

224 Section 6. Section 604.50, Florida Statutes, is amended to
225 read:

226 604.50 Nonresidential farm buildings and farm fences.—

227 (1) Notwithstanding any other law to the contrary, any
228 nonresidential farm building or farm fence is exempt from the
229 Florida Building Code and any county or municipal building code
230 or fee, except for code provisions implementing local, state, or
231 federal floodplain management regulations.

232 (2) As used in ~~For purposes of~~ this section, the term:

233 (a) "Nonresidential farm building" means any temporary or
234 permanent building or support structure that is classified as a
235 nonresidential farm building on a farm under s. 553.73(9)(c) or
236 that is used primarily for agricultural purposes, is located on
237 a farm that is not used as a residential dwelling, and is
238 located on land that is an integral part of a farm operation or
239 is classified as agricultural land under s. 193.461, and is not
240 intended to be used as a residential dwelling. The term may
241 include, but is not limited to, a barn, greenhouse, shade house,
242 farm office, storage building, or poultry house.

243 (b) The term "Farm" has the same meaning is as provided
244 defined in s. 823.14.

245 Section 7. Subsection (7) is added to section 624.4095,



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246 Florida Statutes, to read:

247 624.4095 Premiums written; restrictions.—

248 (7) For purposes of this section and s. 624.407, with
249 regard to capital and surplus required, gross written premiums
250 for federal multiple-peril crop insurance that is ceded to the
251 Federal Crop Insurance Corporation and authorized reinsurers
252 shall not be included when calculating the insurer's gross
253 writing ratio. The liabilities for ceded reinsurance premiums
254 payable for federal multiple-peril crop insurance ceded to the
255 Federal Crop Insurance Corporation and authorized reinsurers
256 shall be netted against the asset for amounts recoverable from
257 reinsurers. Each insurer that writes other insurance products
258 together with federal multiple-peril crop insurance shall
259 disclose in the notes to the annual and quarterly financial
260 statement, or file a supplement to the financial statement that
261 discloses, a breakout of the gross written premiums for federal
262 multiple-peril crop insurance.

263 Section 8. Section 823.145, Florida Statutes, is amended to
264 read:

265 823.145 Disposal by open burning of certain materials ~~mulch~~
266 ~~plastic~~ used in agricultural operations.—Polyethylene
267 agricultural ~~mulch~~ plastic; damaged, nonsalvageable, untreated
268 wood pallets; and packing material that cannot be feasibly
269 recycled, which are used in connection with agricultural
270 operations related to the growing, harvesting, or maintenance of
271 crops, may be disposed of by open burning provided that no
272 public nuisance or any condition adversely affecting the
273 environment or the public health is created thereby and that
274 state or federal national ambient air quality standards are not



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275 | violated.

276 | Section 9. This act shall take effect July 1, 2010.

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278 | ===== T I T L E A M E N D M E N T =====

279 | And the title is amended as follows:

280 | Delete everything before the enacting clause

281 | and insert:

282 | A bill to be entitled

283 | An act relating to agriculture; amending s. 163.3162,
284 | F.S.; prohibiting a county from enforcing certain
285 | limits on the activity of a bona fide farm operation
286 | on agricultural land under certain circumstances;
287 | prohibiting a county from charging agricultural lands
288 | for stormwater management assessments and fees under
289 | certain circumstances; allowing an assessment to be
290 | collected if credits against the assessment are
291 | provided for implementation of best management
292 | practices; providing exemptions from certain
293 | restrictions on a county's powers over the activity on
294 | agricultural land; providing a definition; providing
295 | for application; creating s. 163.3163, F.S.; creating
296 | the "Agricultural Land Acknowledgement Act"; providing
297 | legislative findings and intent; providing
298 | definitions; requiring an applicant for certain
299 | development permits to sign and submit an
300 | acknowledgement of certain contiguous agricultural
301 | lands as a condition of the political subdivision
302 | issuing the permits; specifying information to be
303 | included in the acknowledgement; requiring that the



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304 acknowledgement be recorded in the official county
305 records; authorizing the Department of Agriculture and
306 Consumer Services to adopt rules; amending s. 205.064,
307 F.S.; authorizing a person selling certain
308 agricultural products who is not a natural person to
309 qualify for an exemption from obtaining a local
310 business tax receipt; amending s. 322.01, F.S.;
311 revising the term "farm tractor" for purposes of
312 drivers' licenses; amending s. 604.15, F.S.; revising
313 the term "agricultural products" to make tropical
314 foliage exempt from regulation under provisions
315 relating to dealers in agricultural products; amending
316 s. 604.50, F.S.; exempting farm fences from the
317 Florida Building Code; revising the term
318 "nonresidential farm building"; exempting
319 nonresidential farm buildings and farm fences from
320 county and municipal codes and fees; specifying that
321 the exemptions do not apply to code provisions
322 implementing certain floodplain regulations; amending
323 s. 624.4095, F.S.; requiring that gross written
324 premiums for certain crop insurance not be included
325 when calculating the insurer's gross writing ratio;
326 requiring that liabilities for ceded reinsurance
327 premiums be netted against the asset for amounts
328 recoverable from reinsurers; requiring that insurers
329 who write other insurance products disclose a breakout
330 of the gross written premiums for crop insurance;
331 amending s. 823.145, F.S.; expanding the materials
332 used in agricultural operations that may be disposed



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of by open burning; providing certain limitations on
open burning; providing an effective date.