

By Senator Peaden

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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; allowing an assessment to be  
9           collected if credits against the assessment are  
10          provided for implementation of best management  
11          practices; providing exemptions from certain  
12          restrictions on a county's powers over the activity on  
13          agricultural land; providing a definition; providing  
14          for application; creating s. 163.3163, F.S.; creating  
15          the "Agricultural Land Acknowledgement Act"; providing  
16          legislative findings and intent; providing  
17          definitions; requiring an applicant for certain  
18          development permits to sign and submit an  
19          acknowledgement of certain contiguous agricultural  
20          lands as a condition of the political subdivision  
21          issuing the permits; specifying information to be  
22          included in the acknowledgement; requiring that the  
23          acknowledgement be recorded in the official county  
24          records; authorizing the Department of Agriculture and  
25          Consumer Services to adopt rules; amending s. 205.064,  
26          F.S.; authorizing a person selling certain  
27          agricultural products who is not a natural person to  
28          qualify for an exemption from obtaining a local  
29          business tax receipt; amending s. 322.01, F.S.;

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30 revising the term "farm tractor" for purposes of  
31 drivers' licenses; amending s. 604.15, F.S.; revising  
32 the term "agricultural products" to make tropical  
33 foliage exempt from regulation under provisions  
34 relating to dealers in agricultural products; amending  
35 s. 604.50, F.S.; exempting farm fences from the  
36 Florida Building Code; revising the term  
37 "nonresidential farm building"; exempting  
38 nonresidential farm buildings and farm fences from  
39 county and municipal codes and fees; specifying that  
40 the exemptions do not apply to code provisions  
41 implementing certain floodplain regulations; amending  
42 s. 624.4095, F.S.; requiring that gross written  
43 premiums for certain crop insurance not be included  
44 when calculating the insurer's gross writing ratio;  
45 requiring that liabilities for ceded reinsurance  
46 premiums be netted against the asset for amounts  
47 recoverable from reinsurers; requiring that insurers  
48 who write other insurance products disclose a breakout  
49 of the gross written premiums for crop insurance;  
50 amending s. 823.145, F.S.; expanding the materials  
51 used in agricultural operations that may be disposed  
52 of by open burning; providing certain limitations on  
53 open burning; providing an effective date.

54  
55 Be It Enacted by the Legislature of the State of Florida:

56  
57 Section 1. Subsection (4) of section 163.3162, Florida  
58 Statutes, is amended to read:

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59 163.3162 Agricultural Lands and Practices Act.—

60 (4) DUPLICATION OF REGULATION.—Except as otherwise provided  
61 in this section and s. 487.051(2), and notwithstanding any other  
62 law, including any provision of chapter 125 or this chapter, a  
63 county may not exercise any of its powers to adopt or enforce  
64 any ordinance, resolution, regulation, rule, or policy to  
65 prohibit, restrict, regulate, or otherwise limit an activity of  
66 a bona fide farm operation on land classified as agricultural  
67 land pursuant to s. 193.461, if such activity is regulated  
68 through implemented best management practices, interim measures,  
69 or regulations adopted as rules under chapter 120 ~~developed~~ by  
70 the Department of Environmental Protection, the Department of  
71 Agriculture and Consumer Services, or a water management  
72 district ~~and adopted under chapter 120~~ as part of a statewide or  
73 regional program; or if such activity is expressly regulated by  
74 the United States Department of Agriculture, the United States  
75 Army Corps of Engineers, or the United States Environmental  
76 Protection Agency. A county may not charge an assessment or fee  
77 for stormwater management on a bona fide farm operation on land  
78 classified as agricultural land pursuant to s. 193.461, if the  
79 farm operation has a National Pollutant Discharge Elimination  
80 System permit, environmental resource permit, or works-of-the-  
81 district permit or implements best management practices adopted  
82 as rules under chapter 120 by the Department of Environmental  
83 Protection, the Department of Agriculture and Consumer Services,  
84 or a water management district as part of a statewide or  
85 regional program. However, this subsection does not prohibit a  
86 county from charging an assessment or fee for stormwater  
87 management on a bona fide farm operation that does not have a

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88 National Pollutant Discharge Elimination System permit,  
89 environmental resource permit, or works-of-the-district permit  
90 or that has not implemented water quality and quantity best  
91 management practices as described in this subsection. For each  
92 county that, before March 1, 2009, adopted a stormwater utility  
93 ordinance or resolution, adopted an ordinance or resolution  
94 establishing a municipal services benefit unit, or adopted a  
95 resolution stating the county's intent to use the uniform method  
96 of collection pursuant to s. 197.3632 for such stormwater  
97 ordinances, the county may continue to charge an assessment or  
98 fee for stormwater management on a bona fide farm operation on  
99 land classified as agricultural pursuant to s. 193.461 if the  
100 ordinance or resolution provides credits against the assessment  
101 or fee on a bona fide farm operation for the implementation of  
102 best management practices adopted as rules under chapter 120 by  
103 the Department of Environmental Protection, the Department of  
104 Agriculture and Consumer Services, or a water management  
105 district as part of a statewide or regional program, or  
106 stormwater quality and quantity measures required as part of a  
107 National Pollutant Discharge Elimination System permit,  
108 environmental resource permit, or works-of-the-district permit  
109 or implementation of best management practices or alternative  
110 measures which the landowner demonstrates to the county to be of  
111 equivalent or greater stormwater benefit than those provided by  
112 implementation of best management practices adopted as rules  
113 under chapter 120 by the Department of Environmental Protection,  
114 the Department of Agriculture and Consumer Services, or a water  
115 management district as part of a statewide or regional program,  
116 or stormwater quality and quantity measures required as part of

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117 a National Pollutant Discharge Elimination System permit,  
118 environmental resource permit, or works-of-the-district permit.

119 (a) When an activity of a farm operation takes place within  
120 a wellfield protection area as defined in any wellfield  
121 protection ordinance adopted by a county, and the implemented  
122 best management practice, regulation, or interim measure does  
123 not specifically address wellfield protection, a county may  
124 regulate that activity pursuant to such ordinance. This  
125 subsection does not limit the powers and duties provided for in  
126 s. 373.4592 or limit the powers and duties of any county to  
127 address an emergency as provided for in chapter 252.

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

133 (c) This subsection does not limit the powers of a  
134 predominantly urbanized county with a population greater than  
135 1,500,000 and more than 25 municipalities, not operating under a  
136 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.  
137 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.  
138 VIII of the Constitution of 1968, which has a delegated  
139 pollution control program under s. 403.182 and includes drainage  
140 basins that are part of the Everglades Stormwater Program, to  
141 enact ordinances, regulations, or other measures to comply with  
142 the provisions of s. 373.4592, or which are necessary to  
143 carrying out a county's duties pursuant to the terms and  
144 conditions of any environmental program delegated to the county  
145 by agreement with a state agency.

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

150 (e) This subsection does not limit a county's powers to:

151 1. Enforce wetlands, springs protection, or stormwater  
152 ordinances, regulations, or rules adopted before January 15,  
153 2009.

154 2. Enforce wetlands, springs protection, or stormwater  
155 ordinances, regulations, or rules pertaining to the Wekiva River  
156 Protection Area.

157 3. Enforce ordinances, regulations, or rules as directed by  
158 law or implemented consistent with the requirements of a program  
159 operated under a delegation agreement from a state agency or  
160 water management district.

161  
162 As used in this paragraph, the term "wetlands" has the same  
163 meaning as defined in s. 373.019.

164 (f) The provisions of this subsection that limit a county's  
165 authority to adopt or enforce any ordinance, regulation, rule,  
166 or policy, or to charge any assessment or fee for stormwater  
167 management, apply only to a bona fide farm operation as  
168 described in this subsection.

169 (g) This subsection does not apply to a municipal services  
170 benefit unit established before March 1, 2009, pursuant to s.  
171 125.01(1)(q), predominately for flood control or water supply  
172 benefits.

173 Section 2. Section 163.3163, Florida Statutes, is created  
174 to read:

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175 163.3163 Applications for development permits; disclosure  
176 and acknowledgement of contiguous sustainable agricultural  
177 land.-

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

180 (2) The Legislature finds that nonagricultural land which  
181 neighbors agricultural land may adversely affect agricultural  
182 production and farm operations on the agricultural land and may  
183 lead to the agricultural land's conversion to urban, suburban,  
184 or other nonagricultural uses. The Legislature intends to reduce  
185 the occurrence of conflicts between agricultural and  
186 nonagricultural land uses and encourage sustainable agricultural  
187 land use. The purpose of this section is to ensure that  
188 generally accepted agricultural practices will not be subject to  
189 interference by residential use of land contiguous to  
190 sustainable agricultural land.

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

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

196 (b) "Farm operation" has the same meaning as defined in s.  
197 823.14.

198 (c) "Sustainable agricultural land" means land classified  
199 as agricultural land pursuant to s. 193.461 which is used for a  
200 farm operation that uses current technology, based on science or  
201 research and demonstrated measurable increases in productivity,  
202 to meet future food, feed, fiber, and energy needs, while  
203 considering the environmental impacts and the social and

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204 economic benefits to the rural communities.

205 (4) (a) Before a political subdivision issues a local land  
 206 use permit, building permit, or certificate of occupancy for  
 207 nonagricultural land contiguous to sustainable agricultural  
 208 land, the political subdivision shall require that, as a  
 209 condition of issuing the permit or certificate, the applicant  
 210 for the permit or certificate sign and submit to the political  
 211 subdivision, in a format that is recordable in the official  
 212 records of the county in which the political subdivision is  
 213 located, a written acknowledgement of contiguous sustainable  
 214 agricultural land in the following form:

215  
 216 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

217  
 218 I, ...(name of applicant)..., understand that my  
 219 property located at ...(address of nonagricultural  
 220 land)..., as further described in the attached legal  
 221 description, is contiguous to sustainable agricultural  
 222 land located at ...(address of agricultural land)...,  
 223 as further described in the attached legal  
 224 description.

225 I acknowledge and understand that the farm  
 226 operation on the contiguous sustainable agricultural  
 227 land identified herein will be conducted according to  
 228 generally accepted agricultural practices as provided  
 229 in the Florida Right to Farm Act, s. 823.14, Florida  
 230 Statutes.

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

232 Date: ...(date)....



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233  
234 (b) An acknowledgement submitted to a political subdivision  
235 under paragraph (a) shall be recorded in the official records of  
236 the county in which the political subdivision is located.

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

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

242 205.064 Farm, aquacultural, grove, horticultural,  
243 floricultural, tropical piscicultural, and tropical fish farm  
244 products; certain exemptions.—

245 (1) A local business tax receipt is not required of any  
246 ~~natural~~ person for the privilege of engaging in the selling of  
247 farm, aquacultural, grove, horticultural, floricultural,  
248 tropical piscicultural, or tropical fish farm products, or  
249 products manufactured therefrom, except intoxicating liquors,  
250 wine, or beer, when such products were grown or produced by such  
251 ~~natural~~ person in the state.

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

254 322.01 Definitions.—As used in this chapter:

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

256 (a) Operated principally on a farm, grove, or orchard in  
257 agricultural or horticultural pursuits and that is operated on  
258 the roads of this state only incidentally to transportation  
259 between the owner's or operator's headquarters and the farm,  
260 grove, or orchard or between one farm, grove, or orchard and  
261 another; or

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262       **(b)** Designed and used primarily as a farm implement for  
263 drawing plows, mowing machines, and other implements of  
264 husbandry.

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

267       604.15 Dealers in agricultural products; definitions.—For  
268 the purpose of ss. 604.15-604.34, the following words and terms,  
269 when used, shall be construed to mean:

270       (1) "Agricultural products" means the natural products of  
271 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
272 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;  
273 livestock; milk and milk products; poultry and poultry products;  
274 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*  
275 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety  
276 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
277 nonexempt agricultural products produced in the state, except  
278 tobacco, sugarcane, tropical foliage, timber and timber  
279 byproducts, forest products as defined in s. 591.17, and citrus  
280 other than limes.

281       Section 6. Section 604.50, Florida Statutes, is amended to  
282 read:

283       604.50 Nonresidential farm buildings and farm fences.—  
284 Notwithstanding any other law to the contrary, any  
285 nonresidential farm building or farm fence is exempt from the  
286 Florida Building Code and any county or municipal ~~building~~ code  
287 or fee, except for code provisions implementing local, state, or  
288 federal floodplain management regulations. For purposes of this  
289 section, the term "nonresidential farm building" means any  
290 temporary or permanent building or support structure that is

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291 classified as a nonresidential farm building on a farm under s.  
292 553.73(9)(c) or that is used primarily for agricultural  
293 purposes, is located on a farm that is not used as a residential  
294 dwelling, and is located on land that is an integral part of a  
295 farm operation or is classified as agricultural land under s.  
296 193.461, and is not intended to be used as a residential  
297 dwelling. The term "farm" is as defined in s. 823.14.

298 Section 7. Subsection (7) is added to section 624.4095,  
299 Florida Statutes, to read:

300 624.4095 Premiums written; restrictions.—

301 (7) For purposes of this section and s. 624.407, with  
302 regard to capital and surplus required, gross written premiums  
303 for federal multiple-peril crop insurance that is ceded to the  
304 Federal Crop Insurance Corporation and authorized reinsurers  
305 shall not be included when calculating the insurer's gross  
306 writing ratio. The liabilities for ceded reinsurance premiums  
307 payable for federal multiple-peril crop insurance ceded to the  
308 Federal Crop Insurance Corporation and authorized reinsurers  
309 shall be netted against the asset for amounts recoverable from  
310 reinsurers. Each insurer that writes other insurance products  
311 together with federal multiple-peril crop insurance shall  
312 disclose in the notes to the annual and quarterly financial  
313 statement, or file a supplement to the financial statement that  
314 discloses, a breakout of the gross written premiums for federal  
315 multiple-peril crop insurance.

316 Section 8. Section 823.145, Florida Statutes, is amended to  
317 read:

318 823.145 Disposal by open burning of certain materials ~~mulch~~  
319 ~~plastic~~ used in agricultural operations.—Polyethylene

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320 agricultural mulch plastic; damaged, nonsalvageable, untreated  
321 wood pallets; and packing material that cannot be feasibly  
322 recycled, which are used in connection with agricultural  
323 operations related to the growing, harvesting, or maintenance of  
324 crops, may be disposed of by open burning provided that no  
325 public nuisance or any condition adversely affecting the  
326 environment or the public health is created thereby and that  
327 state or federal national ambient air quality standards are not  
328 violated.

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