

By the Committee on Agriculture; and Senator Peadar

575-02705-10

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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:7

63 (a) A county may not exercise any of its powers to adopt or
64 enforce any ordinance, resolution, regulation, rule, or policy
65 to prohibit, restrict, regulate, or otherwise limit an activity
66 of 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.

77 (b) A county may not charge an assessment or fee for
78 stormwater management on a bona fide farm operation on land
79 classified as agricultural land pursuant to s. 193.461, if the
80 farm operation has a National Pollutant Discharge Elimination
81 System permit, environmental resource permit, or works-of-the-
82 district permit or implements best management practices adopted
83 as rules under chapter 120 by the Department of Environmental
84 Protection, the Department of Agriculture and Consumer Services,
85 or a water management district as part of a statewide or
86 regional program.

87 (c) For each county that, before March 1, 2009, adopted a

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88 stormwater utility ordinance or resolution, adopted an ordinance
89 or resolution establishing a municipal services benefit unit, or
90 adopted a resolution stating the county's intent to use the
91 uniform method of collection pursuant to s. 197.3632 for such
92 stormwater ordinances, the county may continue to charge an
93 assessment or fee for stormwater management on a bona fide farm
94 operation on land classified as agricultural pursuant to s.
95 193.461, if the ordinance or resolution provides credits against
96 the assessment or fee on a bona fide farm operation for:

97 1. The implementation of best management practices adopted
98 as rules under chapter 120 by the Department of Environmental
99 Protection, the Department of Agriculture and Consumer Services,
100 or a water management district as part of a statewide or
101 regional program;

102 2. The stormwater quality and quantity measures required as
103 part of a National Pollutant Discharge Elimination System
104 permit, environmental resource permit, or works-of-the-district
105 permit; or

106 3. The implementation of best management practices or
107 alternative measures that the landowner demonstrates to the
108 county to be of equivalent or greater stormwater benefit than
109 those provided by implementation of best management practices
110 adopted as rules under chapter 120 by the Department of
111 Environmental Protection, the Department of Agriculture and
112 Consumer Services, or a water management district as part of a
113 statewide or regional program, or stormwater quality and
114 quantity measures required as part of a National Pollutant
115 Discharge Elimination System permit, environmental resource
116 permit, or works-of-the-district permit.

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

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

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

144 (g)~~(d)~~ For purposes of this subsection, a county ordinance
145 that regulates the transportation or land application of

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146 domestic wastewater residuals or other forms of sewage sludge
147 shall not be deemed to be duplication of regulation.

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

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

151 2. Enforce wetlands, springs protection, or stormwater
152 ordinances, regulations, or rules pertaining to the Wekiva River
153 Protection Area.

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

158
159 As used in this paragraph, the term "wetlands" has the same
160 meaning as defined in s. 373.019.

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

166 (j) This subsection does not apply to a municipal services
167 benefit unit established before March 1, 2009, pursuant to s.
168 125.01(1)(q), predominately for flood control or water supply
169 benefits.

170 Section 2. Section 163.3163, Florida Statutes, is created
171 to read:

172 163.3163 Applications for development permits; disclosure
173 and acknowledgement of contiguous sustainable agricultural
174 land.-

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

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

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

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

193 (b) "Farm operation" has the same meaning as defined in s.
194 823.14.

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

202 (4) (a) Before a political subdivision issues a local land
203 use permit, building permit, or certificate of occupancy for

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204 nonagricultural land contiguous to sustainable agricultural
205 land, the political subdivision shall require that, as a
206 condition of issuing the permit or certificate, the applicant
207 for the permit or certificate sign and submit to the political
208 subdivision, in a format that is recordable in the official
209 records of the county in which the political subdivision is
210 located, a written acknowledgement of contiguous sustainable
211 agricultural land in the following form:

212
213 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

214
215 I, ...(name of applicant)..., understand that my property
216 located at ...(address of nonagricultural land)..., as further
217 described in the attached legal description, is contiguous to
218 sustainable agricultural land located at ...(address of
219 agricultural land)..., as further described in the attached
220 legal description.

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

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

227 Date: ...(date)....

228

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

232 (c) The Department of Agriculture and Consumer Services, in

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233 cooperation with the Department of Revenue, may adopt rules to
234 administer this section.

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

237 205.064 Farm, aquacultural, grove, horticultural,
238 floricultural, tropical piscicultural, and tropical fish farm
239 products; certain exemptions.—

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

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

249 322.01 Definitions.—As used in this chapter:

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

251 (a) Operated principally on a farm, grove, or orchard in
252 agricultural or horticultural pursuits and that is operated on
253 the roads of this state only incidentally to transportation
254 between the owner's or operator's headquarters and the farm,
255 grove, or orchard or between one farm, grove, or orchard and
256 another; or

257 (b) Designed and used primarily as a farm implement for
258 drawing plows, mowing machines, and other implements of
259 husbandry.

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

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262 604.15 Dealers in agricultural products; definitions.—For
263 the purpose of ss. 604.15-604.34, the following words and terms,
264 when used, shall be construed to mean:

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

276 Section 6. Section 604.50, Florida Statutes, is amended to
277 read:

278 604.50 Nonresidential farm buildings and farm fences.—

279 (1) Notwithstanding any other law to the contrary, any
280 nonresidential farm building or farm fence is exempt from the
281 Florida Building Code and any county or municipal building code
282 or fee, except for code provisions implementing local, state, or
283 federal floodplain management regulations.

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

285 (a) "Nonresidential farm building" means any temporary or
286 permanent building or support structure that is classified as a
287 nonresidential farm building on a farm under s. 553.73(9)(c) or
288 that is used primarily for agricultural purposes, is located on
289 ~~a farm that is not used as a residential dwelling, and is~~
290 located on land that is an integral part of a farm operation or

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291 is classified as agricultural land under s. 193.461, and is not
292 intended to be used as a residential dwelling. The term may
293 include, but is not limited to, a barn, greenhouse, shade house,
294 farm office, storage building, or poultry house.

295 (b) The term "Farm" has the same meaning ~~is~~ as provided
296 defined in s. 823.14.

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

299 624.4095 Premiums written; restrictions.—

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

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

317 823.145 Disposal by open burning of certain materials ~~mulch~~
318 ~~plastic~~ used in agricultural operations.—Polyethylene
319 agricultural ~~mulch~~ plastic; damaged, nonsalvageable, and

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

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