

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

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

50 |
51 | Be It Enacted by the Legislature of the State of Florida:

52 |
53 | Section 1. Subsection (4) of section 163.3162, Florida
54 | Statutes, is amended to read:

55 | 163.3162 Agricultural Lands and Practices Act.—

56 | (4) DUPLICATION OF REGULATION.—Except as otherwise

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57 provided in this section and s. 487.051(2), and notwithstanding
58 any other law, including any provision of chapter 125 or this
59 chapter:7

60 (a) A county may not exercise any of its powers to adopt
61 or enforce any ordinance, resolution, regulation, rule, or
62 policy to prohibit, restrict, regulate, or otherwise limit an
63 activity of a bona fide farm operation on land classified as
64 agricultural land pursuant to s. 193.461, if such activity is
65 regulated through implemented best management practices, interim
66 measures, or regulations adopted as rules under chapter 120
67 ~~developed~~ by the Department of Environmental Protection, the
68 Department of Agriculture and Consumer Services, or a water
69 management district ~~and adopted under chapter 120~~ as part of a
70 statewide or regional program; or if such activity is expressly
71 regulated by the United States Department of Agriculture, the
72 United States Army Corps of Engineers, or the United States
73 Environmental Protection Agency.

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

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

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

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

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

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

113 Discharge Elimination System permit, environmental resource
 114 permit, or works-of-the-district permit.

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

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

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

141 by agreement with a state agency.

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

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

147 1. Enforce wetlands, as defined in s. 373.019, springs
 148 protection, or stormwater ordinances, regulations, or rules
 149 adopted before July 1, 2003.

150 2. Enforce wetlands, as defined in s. 373.019, springs
 151 protection, or stormwater ordinances, regulations, or rules
 152 pertaining to the Wekiva River Protection Area.

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

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

162 (j) This subsection does not apply to a municipal services
 163 benefit unit established before March 1, 2009, pursuant to s.
 164 125.01(1)(g), predominately for flood control or water supply
 165 benefits.

166 Section 2. Section 163.3163, Florida Statutes, is created
 167 to read:

168 163.3163 Applications for development permits; disclosure

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169 and acknowledgement of contiguous sustainable agricultural
 170 land.—

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

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

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

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

189 (b) "Farm operation" has the same meaning as defined in s.
 190 823.14.

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

197 economic benefits to the rural communities.

198 (4) (a) Before a political subdivision issues a local land
 199 use permit, building permit, or certificate of occupancy for
 200 nonagricultural land contiguous to sustainable agricultural
 201 land, the political subdivision shall require that, as a
 202 condition of issuing the permit or certificate, the applicant
 203 for the permit or certificate sign and submit to the political
 204 subdivision, in a format that is recordable in the official
 205 records of the county in which the political subdivision is
 206 located, a written acknowledgement of contiguous sustainable
 207 agricultural land in the following form:

208
 209 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

210
 211 I, ...(name of applicant)..., understand that my property
 212 located at ...(address of nonagricultural land)..., as further
 213 described in the attached legal description, is contiguous to
 214 sustainable agricultural land located at ...(address of
 215 agricultural land)..., as further described in the attached
 216 legal description.

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

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

223 Date: ...(date)....

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225 (b) An acknowledgement submitted to a political
 226 subdivision under paragraph (a) shall be recorded in the
 227 official records of the county in which the political
 228 subdivision is located.

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

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

234 205.064 Farm, aquacultural, grove, horticultural,
 235 floricultural, tropical piscicultural, and tropical fish farm
 236 products; certain exemptions.—

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

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

246 322.01 Definitions.—As used in this chapter:

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

248 (a) Operated principally on a farm, grove, or orchard in
 249 agricultural or horticultural pursuits and that is operated on
 250 the roads of this state only incidentally for transportation
 251 between the owner's or operator's headquarters and the farm,
 252 grove, or orchard or between one farm, grove, or orchard and

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253 | another; or

254 | **(b)** Designed and used primarily as a farm implement for
 255 | drawing plows, mowing machines, and other implements of
 256 | husbandry.

257 | Section 5. Subsection (1) of section 604.15, Florida
 258 | Statutes, is amended to read:

259 | 604.15 Dealers in agricultural products; definitions.—For
 260 | the purpose of ss. 604.15-604.34, the following words and
 261 | terms, when used, shall be construed to mean:

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

273 | Section 6. Section 604.50, Florida Statutes, is amended to
 274 | read:

275 | 604.50 Nonresidential farm buildings and farm fences.—

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

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

282 (a) "Nonresidential farm building" means any temporary or
 283 permanent building or support structure that is classified as a
 284 nonresidential farm building on a farm under s. 553.73(9)(c) or
 285 that is used primarily for agricultural purposes, is located on
 286 a farm that is not used as a residential dwelling, and is
 287 located on land that is an integral part of a farm operation or
 288 is classified as agricultural land under s. 193.461, and is not
 289 intended to be used as a residential dwelling. The term may
 290 include, but is not limited to, a barn, greenhouse, shade house,
 291 farm office, storage building, or poultry house.

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

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

296 624.4095 Premiums written; restrictions.-

297 (7) For purposes of ss. 624.407 and 624.408 and this
 298 section, with regard to capital and surplus required, gross
 299 written premiums for federal multiple-peril crop insurance that
 300 is ceded to the Federal Crop Insurance Corporation and
 301 authorized reinsurers shall not be included when calculating the
 302 insurer's gross writing ratio. The liabilities for ceded
 303 reinsurance premiums payable for federal multiple-peril crop
 304 insurance ceded to the Federal Crop Insurance Corporation and
 305 authorized reinsurers shall be netted against the asset for
 306 amounts recoverable from reinsurers. Each insurer that writes
 307 other insurance products together with federal multiple-peril
 308 crop insurance shall disclose in the notes to the annual and

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309 quarterly financial statement, or file a supplement to the
310 financial statement that discloses, a breakout of the gross
311 written premiums for federal multiple-peril crop insurance.

312 Section 8. Section 823.145, Florida Statutes, is amended
313 to read:

314 823.145 Disposal by open burning of certain materials
315 ~~mulch plastic~~ used in agricultural operations.—Polyethylene
316 agricultural mulch plastic; damaged, nonsalvageable, untreated
317 wood pallets; and packing material that cannot be feasibly
318 recycled, which are used in connection with agricultural
319 operations related to the growing, harvesting, or maintenance of
320 crops, may be disposed of by open burning provided that no
321 public nuisance or any condition adversely affecting the
322 environment or the public health is created thereby and that
323 state or federal national ambient air quality standards are not
324 violated.

325 Section 9. This act shall take effect July 1, 2011.