

By Senator Hays

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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 driver's 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 the
97 water quality or flood control benefit of:

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

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

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

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117 permit, or works-of-the-district permit.

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

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

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

145 (g)~~(d)~~ For purposes of this subsection, a county ordinance

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146 that regulates the transportation or land application of
147 domestic wastewater residuals or other forms of sewage sludge
148 shall not be deemed to be duplication of regulation.

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

150 1. Enforce wetlands, as defined in s. 373.019, springs
151 protection, or stormwater ordinances, regulations, or rules
152 adopted before July 1, 2003.

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

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

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

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

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

171 163.3163 Applications for development permits; disclosure
172 and acknowledgement of contiguous sustainable agricultural
173 land.—

174 (1) This section may be cited as the "Agricultural Land

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175 Acknowledgement Act."

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

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

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

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

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

201 (4) (a) Before a political subdivision issues a local land
202 use permit, building permit, or certificate of occupancy for
203 nonagricultural land contiguous to sustainable agricultural

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

211
212 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

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

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

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

226 Date: ...(date)....

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

231 (c) The Department of Agriculture and Consumer Services, in
232 cooperation with the Department of Revenue, may adopt rules to

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233 administer this section.

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

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

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

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

248 322.01 Definitions.—As used in this chapter:

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

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

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

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

261 604.15 Dealers in agricultural products; definitions.—For

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262 the purpose of ss. 604.15-604.34, the following words and terms,
263 when used, shall be construed to mean:

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

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

277 604.50 Nonresidential farm buildings and farm fences.—

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

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

284 (a) "Nonresidential farm building" means any temporary or
285 permanent building or support structure that is classified as a
286 nonresidential farm building on a farm under s. 553.73(9)(c) or
287 that is used primarily for agricultural purposes, is located on
288 a farm that is not used as a residential dwelling, and is
289 located on land that is an integral part of a farm operation or
290 is classified as agricultural land under s. 193.461, and is not

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291 intended to be used as a residential dwelling. The term may
292 include, but is not limited to, a barn, greenhouse, shade house,
293 farm office, storage building, or poultry house.

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

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

298 624.4095 Premiums written; restrictions.—

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

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

316 823.145 Disposal by open burning of certain materials ~~mulch~~
317 ~~plastic~~ used in agricultural operations.—Polyethylene
318 agricultural ~~mulch~~ plastic; damaged, nonsalvageable, untreated
319 wood pallets; and packing material that cannot be feasibly

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

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