

1                   A bill to be entitled  
2           An act relating to the development of current or  
3           former agricultural land; creating s. 376.3065, F.S.;  
4           defining terms; providing legislative findings;  
5           providing that the application of pesticides as part  
6           of agricultural operations is presumed to be a lawful  
7           application under certain circumstances; authorizing  
8           pesticide mixing areas to be legally subdivided for  
9           certain purposes; requiring the Department of  
10          Environmental Protection to investigate claims and  
11          provide certain remedies as applicable; providing site  
12          assessment and remedial activity requirements for  
13          current or former agricultural land; providing  
14          applicability; providing that current or former  
15          agricultural land that meets certain requirements is  
16          exempt from further regulation by the department;  
17          authorizing property owners to voluntarily apply for  
18          brownfield site rehabilitation activities; authorizing  
19          lenders to rely on certain provisions under certain  
20          circumstances; requiring property owners to provide  
21          the department with reasonable assurances that certain  
22          risk management techniques have been implemented  
23          before redeveloping their property; requiring the  
24          property owner to notify the department upon  
25          completion of the risk management techniques;

26 prohibiting the department from requiring additional  
 27 environmental management activities for certain  
 28 property owners except in cases of fraud, the  
 29 discovery of new information regarding a specified  
 30 contaminant, failed management efforts, or substantial  
 31 changes in exposure conditions; amending s. 403.182,  
 32 F.S.; providing that the Secretary of Environmental  
 33 Protection has exclusive jurisdiction in evaluating  
 34 environmental conditions and assessing potential  
 35 liability for the presence of contaminants on certain  
 36 lands; prohibiting the secretary from delegating such  
 37 authority to a local governmental entity; providing an  
 38 effective date.

39  
 40 Be It Enacted by the Legislature of the State of Florida:

41  
 42 Section 1. Section 376.3065, Florida Statutes, is created  
 43 to read:

44 376.3065 Development of current or former agricultural  
 45 land.—

46 (1) DEFINITIONS.—As used in this section, the term:

47 (a) "Current or former agricultural land" means land that  
 48 is or was classified as agricultural land pursuant to s.  
 49 193.461.

50 (b) "Lawful application" means the application of

51 pesticides that have been properly mixed and applied in  
 52 accordance with the manufacturer specifications and United  
 53 States Environmental Protection Agency approvals on the labels  
 54 of properly registered products.

55 (c) "Pesticide" has the same meaning as in 7 U.S.C. s.  
 56 136(u).

57 (d) "Pesticide mixing area" means the area on the property  
 58 where pesticide storage, mixing, or equipment maintenance  
 59 facilities are located.

60 (e) "Qualified property" means a parcel of land that is  
 61 part of a broader, regional, or multi property area impacted by  
 62 pesticides.

63 (2) LAWFUL APPLICATION OF PESTICIDES.—

64 (a) The Legislature finds that state and federal  
 65 regulations prescribe lawful application of pesticides and limit  
 66 their use in the operation of bona fide agricultural activities.

67 (b) For purposes of this section, the application of  
 68 pesticides as part of agricultural operations is presumed to be  
 69 a lawful application, unless a discharge as defined in s.  
 70 376.301 exists, and is presumed not to be a recognized  
 71 environmental condition pursuant to 40 CFR part 312.

72 (c) Notwithstanding any other state or local law or  
 73 regulation to the contrary, pesticide mixing areas may be  
 74 legally subdivided as separate parcels of land for environmental  
 75 evaluation and remediation.

76 (d) Upon receiving a report of a discovery of verifiable  
 77 pesticide impacts to potable water systems or potable private  
 78 wells caused by a property, the department shall investigate the  
 79 claim pursuant to s. 376.30(3) and provide any appropriate  
 80 remedies pursuant to s. 376.307(5).

81 (3) SITE ASSESSMENT AND REMEDIAL ACTIVITIES FOR CURRENT OR  
 82 FORMER AGRICULTURAL LAND.—

83 (a) Notwithstanding any existing state or local law or  
 84 regulation for site assessment and remedial activity applicable  
 85 to current or former agricultural land, this section shall be  
 86 used for evaluating environmental conditions and prescribing  
 87 remedial activity for a contaminated site for such current or  
 88 former agricultural land. This section does not apply to former  
 89 agricultural land that has obtained local government-approved  
 90 permits to initiate redevelopment or has completed redevelopment  
 91 as of July 1, 2022.

92 (b) Current or former agricultural land that meets the  
 93 requirements of this section is exempt from regulation by  
 94 department rules for site assessment and remedial activity  
 95 associated with lawful applications.

96 (c) A property owner may voluntarily apply for brownfield  
 97 site rehabilitation activities in accordance with the  
 98 Brownfields Redevelopment Act, ss. 376.77-376.85.

99 (d) Lenders may rely on this section if:

- 100 1. The lender is serving as a trustee, a personal

101 representative, or another type of fiduciary;

102 2. The lender holds indicia of ownership in the site  
103 primarily to protect a security interest; or

104 3. The lender held a security interest in the site and has  
105 foreclosed or otherwise acted to acquire title primarily to  
106 protect its security interest; seeks to sell, transfer, or  
107 otherwise divest the assets for subsequent sale at the earliest  
108 possible time, taking all relevant facts and circumstances into  
109 account; and has not undertaken management activities beyond  
110 those necessary to protect its financial interest, to effectuate  
111 compliance with environmental statutes and rules.

112 (e) This section applies regardless of when a contaminant  
113 was discovered if the real property owner of the current or  
114 former agricultural land:

115 1. Completes environmental management activities pursuant  
116 to subsection (4) as part of the property's redevelopment. The  
117 incentives of this subsection do not apply to formerly  
118 cultivated land that has obtained local government-approved  
119 permits to initiate redevelopment or has completed redevelopment  
120 as of July 1, 2022, and such redeveloped properties are not  
121 required to complete the risk management activities pursuant to  
122 subsection (4);

123 2. Has not been proved to have operated in a grossly  
124 negligent manner. Discharges as defined in s. 376.301 do not  
125 exist on the current or former agricultural land;

126 3. Has not willfully concealed a discharge as defined in  
 127 s. 376.301; and

128 4. Provides reasonable assurances that the property does  
 129 not include:

130 a. A pesticide mixing area; or

131 b. An area, including surface or groundwater, designated  
 132 as a contaminated site whose classification as a contaminated  
 133 site was the result of its proximity to a pesticide mixing area.

134 (f) Current or former bona fide agricultural operations  
 135 are presumed to have lawfully applied pesticides in this state,  
 136 unless evidence of a point source of impacts or a discharge as  
 137 defined in s. 376.301 exists.

138 (4) ENVIRONMENTAL MANAGEMENT.—

139 (a) Before redevelopment of current or former agricultural  
 140 land that qualifies as a contaminated site, the property owner  
 141 or authorized representative shall provide the department with  
 142 reasonable assurances that all of the following applicable risk  
 143 management techniques have been implemented:

144 1. A soil management plan that includes, at a minimum,  
 145 exposed soils on site that are subject to human exposure, that  
 146 are found between land surface and 2 feet below land surface,  
 147 and that meet or exceed soil cleanup target levels established  
 148 by department rule. The soils must be managed using appropriate  
 149 institutional or engineering controls consistent with the  
 150 proposed land reuse, which may be accomplished using non-

151 contaminated fill material or by mixing or blending the soil  
152 during construction. Soil reuse or relocation must be conducted  
153 in accordance with all applicable federal, state, and local  
154 regulations. A soil management plan must follow guidance  
155 developed by the department.

156 2. If surface water or groundwater sampling for the  
157 current or former agricultural land indicates the presence of  
158 contaminants at concentrations exceeding cleanup target levels  
159 established by department rule, a water management plan for the  
160 property that incorporates institutional controls as defined in  
161 s. 376.301(21) or s. 376.79(11). Stormwater conveyance  
162 construction and dewatering requirements must be completed  
163 pursuant to applicable department permits. Proposed or existing  
164 improvements to a property with human occupancy which is served  
165 by a municipal drinking water supply system or which accesses  
166 drinking water must meet water management district well  
167 permitting rules.

168 (b) The property owner shall notify the department upon  
169 completion of the risk management techniques, with an  
170 affirmative demonstration that the owner has met the  
171 requirements of this section.

172 (c) Qualified properties are not required to meet any off-  
173 property sampling requirements under this chapter and a property  
174 owner of such a property is only responsible for environmental  
175 risk management within the qualified property's legal

176 boundaries.

177 (5) REOPENERS.—Upon completion of environmental management  
 178 activities in compliance with subsection (4), the property may  
 179 not be required to complete additional environmental management  
 180 activities unless:

181 (a) The department determines that fraud was committed in  
 182 demonstrating land or real property conditions or in completing  
 183 environmental management activities;

184 (b) New information confirms the existence of a  
 185 contaminant that exceeds the environmental management criteria  
 186 established in accordance with subsection (4) or that otherwise  
 187 poses the threat of real and substantial harm to public health,  
 188 safety, and the environment;

189 (c) Environmental management efforts failed to achieve the  
 190 criteria established under this section; or

191 (d) Substantial changes in exposure conditions have  
 192 increased the level of risk beyond the acceptable risk  
 193 established under subsection (4). The department may require a  
 194 person who changes the land use of the property which causes the  
 195 level of risk to increase beyond the acceptable risk level to  
 196 undertake additional environmental management measures to assure  
 197 the protection of human health and the environment.

198 Section 2. Subsection (11) is added to section 403.182,  
 199 Florida Statutes, to read:

200 403.182 Local pollution control programs.—



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201        (11) Notwithstanding s. 403.182 or any existing local  
202 pollution control programs, the Secretary of Environmental  
203 Protection has exclusive jurisdiction in all matters related to  
204 evaluating environmental conditions and assessing potential  
205 liability for the presence of contaminants on land that is or  
206 was classified as agricultural land pursuant to s. 193.461,  
207 including defining what constitutes all appropriate inquiries.  
208 The secretary may not delegate the authority to a county, a  
209 municipality, or another unit of local government through a  
210 local pollution control program under s. 403.182.

211        Section 3. This act shall take effect July 1, 2022.