

1 A bill to be entitled
2 An act relating to community development and
3 planning; creating s. 163.3162, F.S.; providing
4 a short title; providing legislative findings
5 and purpose with respect to agricultural
6 activities and duplicative regulation; defining
7 the terms "farm," "farm operation," and "farm
8 product" for purposes of the act; prohibiting a
9 county from adopting any ordinance, resolution,
10 regulation, rule, or policy to prohibit or
11 otherwise limit a bona fide farm operation on
12 land that is classified as agricultural land
13 under s. 193.461, F.S.; providing that the act
14 does not limit the powers of a county under
15 certain circumstances; clarifying that a farm
16 operation may not expand its operations under
17 certain circumstances; providing that the act
18 does not limit the powers of certain counties;
19 providing that certain county ordinances are
20 not deemed to be a duplication of regulation;
21 amending s. 163.3174, F.S.; providing local
22 planning authority for certain municipalities
23 in certain charter counties; providing
24 severability; amending s. 193.461, F.S.;
25 authorizing the governing body of a county to
26 revoke the waiver of annual property
27 classification; revising the date by which the
28 property appraiser must provide notice to
29 property owners; providing for waiver and
30 revocation of the waiver of the notice and
31 certification requirement for land

1 classification; defining the term "extenuating
2 circumstances" to include failure to return the
3 agricultural classification form under certain
4 circumstances; providing for effect of waiver
5 of annual application requirements; amending s.
6 163.3167, F.S.; prohibiting subsequent
7 abrogations of certain quasi-judicial
8 development orders; providing for retroactive
9 application; providing effective dates.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Section 163.3162, Florida Statutes, is
14 created to read:

15 163.3162 Agricultural Lands and Practices Act.--

16 (1) SHORT TITLE.--This section may be cited as the
17 "Agricultural Lands and Practices Act."

18 (2) LEGISLATIVE FINDINGS AND PURPOSE.--The Legislature
19 finds that agricultural production is a major contributor to
20 the economy of the state; that agricultural lands constitute
21 unique and irreplaceable resources of statewide importance;
22 that the continuation of agricultural activities preserves the
23 landscape and environmental resources of the state,
24 contributes to the increase of tourism, and furthers the
25 economic self-sufficiency of the people of the state; and that
26 the encouragement, development, and improvement of agriculture
27 will result in a general benefit to the health, safety, and
28 welfare of the people of the state. It is the purpose of this
29 act to protect reasonable agricultural activities conducted on
30 farm lands from duplicative regulation.

31 (3) DEFINITIONS.--As used in this section, the term:

1 (a) "Farm" is as defined in s. 823.14.

2 (b) "Farm operation" is as defined in s. 823.14.

3 (c) "Farm product" means any plant, as defined in s.
4 581.011, or animal useful to humans and includes, but is not
5 limited to, any product derived therefrom.

6 (4) DUPLICATION OF REGULATION.--Except as otherwise
7 provided in this section and s. 487.051(2), and
8 notwithstanding any other law, including any provision of
9 chapter 125 or this chapter, a county may not exercise any of
10 its powers to adopt any ordinance, resolution, regulation,
11 rule, or policy to prohibit, restrict, regulate, or otherwise
12 limit an activity of a bona fide farm operation on land that
13 is an integral part of a farm operation or land classified as
14 agricultural land pursuant to s. 193.461, if such activity is
15 regulated through implemented best-management practices,
16 interim measures, or regulations developed by the Department
17 of Environmental Protection, the Department of Agriculture and
18 Consumer Services, or a water management district and adopted
19 under chapter 120 as part of a statewide or regional program;
20 or if such activity is expressly regulated by the United
21 States Department of Agriculture, the United States Army Corps
22 of Engineers, or the United States Environmental Protection
23 Agency.

24 (a) When an activity of a farm operation takes place
25 within a wellfield protection area as defined in any wellfield
26 protection ordinance adopted by a county, and the implemented
27 best-management practice, regulation, or interim measure does
28 not specifically address wellfield protection, a county may
29 regulate that activity pursuant to such ordinance. This
30 subsection does not limit the powers and duties provided for

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1 in s. 373.4592 or limit the powers and duties of any county to
2 address an emergency as provided for in chapter 252.

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

8 (c) This subsection does not limit the powers of a
9 predominantly urbanized county with a population greater than
10 1,500,000 and more than 25 municipalities, not operating under
11 a home rule charter adopted pursuant to ss. 10, 11, and 24,
12 Art. VIII of the Constitution of 1885, as preserved by s.
13 6(e), Art. VIII of the Constitution of 1968, which has a
14 delegated pollution control program under s. 403.182 and
15 includes drainage basins that are part of the Everglades
16 Stormwater Program, to enact ordinances, regulations, or other
17 measures to comply with the provisions of s. 373.4592, or
18 which are necessary to carrying out a county's duties pursuant
19 to the terms and conditions of any environmental program
20 delegated to the county by agreement with a state agency.

21 (d) For purposes of this subsection, a county
22 ordinance that regulates the transportation or land
23 application of domestic wastewater residuals or other forms of
24 sewage sludge shall not be deemed to be duplication of
25 regulation.

26 Section 2. Paragraphs (a) and (e) of subsection (3) of
27 section 193.461, Florida Statutes, are amended to read:

28 193.461 Agricultural lands; classification and
29 assessment; mandated eradication or quarantine program.--

30 (3)(a) No lands shall be classified as agricultural
31 lands unless a return is filed on or before March 1 of each

1 year. The property appraiser, before so classifying such
2 lands, may require the taxpayer or the taxpayer's
3 representative to furnish the property appraiser such
4 information as may reasonably be required to establish that
5 such lands were actually used for a bona fide agricultural
6 purpose. Failure to make timely application by March 1 shall
7 constitute a waiver for 1 year of the privilege herein granted
8 for agricultural assessment. However, an applicant who is
9 qualified to receive an agricultural classification who fails
10 to file an application by March 1 may file an application for
11 the classification and may file, pursuant to s. 194.011(3), a
12 petition with the value adjustment board requesting that the
13 classification be granted. The petition may be filed at any
14 time during the taxable year on or before the 25th day
15 following the mailing of the notice by the property appraiser
16 as provided in s. 194.011(1). Notwithstanding the provisions
17 of s. 194.013, the applicant must pay a nonrefundable fee of
18 \$15 upon filing the petition. Upon reviewing the petition, if
19 the person is qualified to receive the classification and
20 demonstrates particular extenuating circumstances judged by
21 the property appraiser or the value adjustment board to
22 warrant granting the classification, the property appraiser or
23 the value adjustment board may grant the classification. The
24 owner of land that was classified agricultural in the previous
25 year and whose ownership or use has not changed may reapply on
26 a short form as provided by the department. The lessee of
27 property may make original application or reapply using the
28 short form if the lease, or an affidavit executed by the
29 owner, provides that the lessee is empowered to make
30 application for the agricultural classification on behalf of
31 the owner and a copy of the lease or affidavit accompanies the

1 application. A county may, at the request of the property
2 appraiser and by a majority vote of its governing body, waive
3 the requirement that an annual application or statement be
4 made for classification of property within the county after an
5 initial application is made and the classification granted by
6 the property appraiser. Such waiver may be revoked by a
7 majority vote of the governing body of the county.

8 (e) Notwithstanding the provisions of paragraph (a),
9 land that has received an agricultural classification from ~~the~~
10 ~~property appraiser,~~ the value adjustment board, or a court of
11 competent jurisdiction pursuant to this section is entitled to
12 receive such classification in any subsequent year until such
13 agricultural use of the land is abandoned or discontinued, the
14 land is diverted to a nonagricultural use, or the land is
15 reclassified as nonagricultural pursuant to subsection (4).
16 The property appraiser must, no later than January 31 ~~15~~ of
17 each year, provide notice to the owner of land that was
18 classified agricultural in the previous year informing the
19 owner of the requirements of this paragraph and requiring the
20 owner to certify that neither the ownership nor the use of the
21 land has changed. The department shall, by administrative
22 rule, prescribe the form of the notice to be used by the
23 property appraiser under this paragraph. If a county has
24 waived the requirement that an annual application or statement
25 be made for classification of property pursuant to paragraph
26 (a), the county may, by a majority vote of its governing body,
27 waive the notice and certification requirements of this
28 paragraph and shall provide the property owner with the same
29 notification provided to owners of land granted an
30 agricultural classification by the property appraiser. Such
31 waiver may be revoked by a majority vote of the county's

1 governing body.~~However,~~This paragraph does not apply to any
2 property if the agricultural classification of that property
3 is the subject of current litigation.

4 Section 3. (1) For purposes of granting an
5 agricultural classification for January 1, 2003, the term
6 "extenuating circumstances," as used in section 193.461(3)(a),
7 Florida Statutes, includes the failure of a property owner in
8 a county that waived the annual application process to return
9 the agricultural classification form or card, which return was
10 required by operation of section 193.461(3)(e), Florida
11 Statutes, as created by chapter 2002-18, Laws of Florida.

12 (2) Any waiver of the annual application granted under
13 section 193.461(3)(a), Florida Statutes, which is in effect on
14 December 31, 2002, shall remain in full force and effect until
15 subsequently revoked as provided by section 193.461(3)(a),
16 Florida Statutes.

17 Section 4. Subsection (13) is added to section
18 163.3167, Florida Statutes, to read:

19 163.3167 Scope of act.--

20 (13)(a) If a local government grants a quasi-judicial
21 development order pursuant to its adopted land development
22 regulations and the order is not the subject of a pending
23 appeal, the right to commence and complete development
24 pursuant to the order may not be abrogated by a subsequent
25 judicial determination that such land development regulations,
26 or any portion thereof, are invalid because of a deficiency in
27 the approval standards.

28 (b) This subsection does not preclude or affect the
29 timely institution of common law writ of certiorari
30 proceedings, pursuant to Rule 9.190, Florida Rules of
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1 Appellate Procedure, or original proceedings pursuant to s.
2 163.3215.

3 (c) This subsection applies retroactively to any order
4 issued on or after January 1, 2002.

5 Section 5. Effective upon this act becoming a law,
6 paragraph (c) of subsection (1) of section 163.3174, Florida
7 Statutes, is created to read:

8 163.3174 Local planning agency.--

9 (1)

10 (c) The Legislature recognizes that many larger
11 municipalities within charter counties have the technical
12 planning staff to effectively implement and enforce a
13 comprehensive plan and develop and achieve a community vision
14 within their boundaries. Notwithstanding paragraph (b) or any
15 other provision of law to the contrary, each municipality with
16 a population greater than 10,000, located in a charter county,
17 not operating under a home rule charter adopted pursuant to
18 ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as
19 preserved by s. 6(e), Art. VIII of the Constitution of 1968
20 with a population greater than 1,500,000 and more than 25
21 municipalities, shall have exclusive planning authority,
22 including, but not limited to, development order approval and
23 zoning and comprehensive planning for the area under its
24 municipal jurisdiction. However, a municipality located in
25 such a county may delegate planning authority for the area
26 under its municipal jurisdiction to the county if the
27 governing body of the municipality adopts a resolution
28 approving the delegation to the county. A charter county, as
29 described in this paragraph, may provide written comments on a
30 proposed land use change within a municipality's jurisdiction

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1 and provide planning assistance if requested by the
2 municipality.

3 Section 6. If any provision of this act or the
4 application thereof to any person or circumstance is held
5 invalid, the invalidity does not affect other provisions or
6 applications of this act which can be given effect without the
7 invalid provision or application, and to this end the
8 provisions of this act are declared severable.

9 Section 7. Except as otherwise expressly provided in
10 this act, this act shall take effect July 1, 2003, and this
11 section shall take effect upon becoming a law.

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