

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.