

By the Committee on Agriculture; and Senator Hays

575-02157-11

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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, springs protection, or stormwater
151 ordinances, regulations, or rules adopted before July 1, 2003.

152 2. Enforce wetlands, springs protection, or stormwater
153 ordinances, regulations, or rules pertaining to the Wekiva River
154 Protection Area.

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

159
160 As used in this paragraph, the term "wetlands" has the same
161 meaning as defined in s. 373.019.

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

167 (j) This subsection does not apply to a municipal services
168 benefit unit established before March 1, 2009, pursuant to s.
169 125.01(1)(q), predominately for flood control or water supply
170 benefits.

171 Section 2. Section 163.3163, Florida Statutes, is created
172 to read:

173 163.3163 Applications for development permits; disclosure
174 and acknowledgement of contiguous sustainable agricultural

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175 land.—

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

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

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

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

194 (b) "Farm operation" has the same meaning as defined in s.
195 823.14.

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

203 (4) (a) Before a political subdivision issues a local land

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

213

214 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

215

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

222 I acknowledge and understand that the farm operation on the
223 contiguous sustainable agricultural land identified herein will
224 be conducted according to generally accepted agricultural
225 practices as provided in the Florida Right to Farm Act, s.
226 823.14, Florida Statutes.

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

228 Date: ...(date)....

229

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

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

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

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

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

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

250 322.01 Definitions.—As used in this chapter:

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

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

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

261 Section 5. Subsection (1) of section 604.15, Florida

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262 Statutes, is amended to read:

263 604.15 Dealers in agricultural products; definitions.—For
264 the purpose of ss. 604.15-604.34, the following words and terms,
265 when used, shall be construed to mean:

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

277 Section 6. Section 604.50, Florida Statutes, is amended to
278 read:

279 604.50 Nonresidential farm buildings and farm fences.—

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

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

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

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291 located on land that is an integral part of a farm operation or
292 is classified as agricultural land under s. 193.461, and is not
293 intended to be used as a residential dwelling. The term may
294 include, but is not limited to, a barn, greenhouse, shade house,
295 farm office, storage building, or poultry house.

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

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

300 624.4095 Premiums written; restrictions.—

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

316 Section 8. Section 823.145, Florida Statutes, is amended to
317 read:

318 823.145 Disposal by open burning of certain materials ~~mulch~~
319 ~~plastic~~ used in agricultural operations.—Polyethylene

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

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