

PCB ANR 10-08

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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 limits
4 on the activity of a bona fide farm operation on
5 agricultural land under certain circumstances; prohibiting
6 a county from charging agricultural lands for stormwater
7 management assessments and fees under certain
8 circumstances; allowing an assessment to be collected if
9 credits against the assessment are provided for
10 implementation of best management practices; providing
11 exemptions from certain restrictions on a county's powers
12 over the activity on agricultural land; providing a
13 definition; providing for application; creating s.
14 163.3163, F.S.; creating the "Agricultural Land
15 Acknowledgement Act"; providing legislative findings and
16 intent; providing definitions; requiring an applicant for
17 certain development permits to sign and submit an
18 acknowledgement of certain contiguous agricultural lands
19 as a condition of the political subdivision issuing the
20 permits; specifying information to be included in the
21 acknowledgement; requiring that the acknowledgement be
22 recorded in the official county records; authorizing the
23 Department of Agriculture and Consumer Services to adopt
24 rules; amending s. 205.064, F.S.; authorizing a person
25 selling certain agricultural products who is not a natural
26 person to qualify for an exemption from obtaining a local
27 business tax receipt; amending s. 322.01, F.S.; revising
28 the term "farm tractor" for purposes of drivers' licenses;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

29 | amending s. 604.15, F.S.; revising the term "agricultural
 30 | products" to make tropical foliage exempt from regulation
 31 | under provisions relating to dealers in agricultural
 32 | products; amending s. 604.50, F.S.; exempting farm fences
 33 | from the Florida Building Code; revising the term
 34 | "nonresidential farm building"; exempting nonresidential
 35 | farm buildings and farm fences from county and municipal
 36 | codes and fees; specifying that the exemptions do not
 37 | apply to code provisions implementing certain floodplain
 38 | regulations; amending s. 624.4095, F.S.; requiring that
 39 | gross written premiums for certain crop insurance not be
 40 | included when calculating the insurer's gross writing
 41 | ratio; requiring that liabilities for ceded reinsurance
 42 | premiums be netted against the asset for amounts
 43 | recoverable from reinsurers; requiring that insurers who
 44 | write other insurance products disclose a breakout of the
 45 | gross written premiums for crop insurance; amending s.
 46 | 823.145, F.S.; expanding the materials used in
 47 | agricultural operations that may be disposed of by open
 48 | burning; providing certain limitations on open burning;
 49 | providing an effective date.

50 |
 51 | Be It Enacted by the Legislature of the State of Florida:

52 |
 53 | Section 1. Subsection (4) of section 163.3162, Florida
 54 | Statutes, is amended to read:

55 | 163.3162 Agricultural Lands and Practices Act.—

56 (4) DUPLICATION OF REGULATION.—Except as otherwise
 57 provided in this section and s. 487.051(2), and notwithstanding
 58 any other law, including any provision of chapter 125 or this
 59 chapter:⁷

60 (a) A county may not exercise any of its powers to adopt
 61 or enforce any ordinance, resolution, regulation, rule, or
 62 policy to prohibit, restrict, regulate, or otherwise limit an
 63 activity of a bona fide farm operation on land classified as
 64 agricultural land pursuant to s. 193.461, if such activity is
 65 regulated through implemented best management practices, interim
 66 measures, or regulations adopted as rules under chapter 120
 67 ~~developed~~ by the Department of Environmental Protection, the
 68 Department of Agriculture and Consumer Services, or a water
 69 management district ~~and adopted under chapter 120~~ as part of a
 70 statewide or regional program; or if such activity is expressly
 71 regulated by the United States Department of Agriculture, the
 72 United States Army Corps of Engineers, or the United States
 73 Environmental Protection Agency.

74 (b) A county may not charge an assessment or fee for
 75 stormwater management on a bona fide farm operation on land
 76 classified as agricultural land pursuant to s. 193.461, if the
 77 farm operation has a National Pollutant Discharge Elimination
 78 System permit, environmental resource permit, or works-of-the-
 79 district permit or implements best management practices adopted
 80 as rules under chapter 120 by the Department of Environmental
 81 Protection, the Department of Agriculture and Consumer Services,
 82 or a water management district as part of a statewide or
 83 regional program.

84 (c) For each county that, before March 1, 2009, adopted a
 85 stormwater utility ordinance or resolution, adopted an ordinance
 86 or resolution establishing a municipal services benefit unit, or
 87 adopted a resolution stating the county's intent to use the
 88 uniform method of collection pursuant to s. 197.3632 for such
 89 stormwater ordinances, the county may continue to charge an
 90 assessment or fee for stormwater management on a bona fide farm
 91 operation on land classified as agricultural pursuant to s.
 92 193.461, if the ordinance or resolution provides credits against
 93 the assessment or fee on a bona fide farm operation for:

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

99 2. The stormwater quality and quantity measures required
 100 as part of a National Pollutant Discharge Elimination System
 101 permit, environmental resource permit, or works-of-the-district
 102 permit; or

103 3. The implementation of best management practices or
 104 alternative measures which the landowner demonstrates to the
 105 county to be of equivalent or greater stormwater benefit than
 106 those provided by implementation of best management practices
 107 adopted as rules under chapter 120 by the Department of
 108 Environmental Protection, the Department of Agriculture and
 109 Consumer Services, or a water management district as part of a
 110 statewide or regional program, or stormwater quality and
 111 quantity measures required as part of a National Pollutant

112 Discharge Elimination System permit, environmental resource
 113 permit, or works-of-the-district permit.

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

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

128 (f)~~(e)~~ This subsection does not limit the powers of a
 129 predominantly urbanized county with a population greater than
 130 1,500,000 and more than 25 municipalities, not operating under a
 131 home rule charter adopted pursuant to ss. 10, 11, and 24, Art.
 132 VIII of the Constitution of 1885, as preserved by s. 6(e), Art.
 133 VIII of the Constitution of 1968, which has a delegated
 134 pollution control program under s. 403.182 and includes drainage
 135 basins that are part of the Everglades Stormwater Program, to
 136 enact ordinances, regulations, or other measures to comply with
 137 the provisions of s. 373.4592, or which are necessary to
 138 carrying out a county's duties pursuant to the terms and

139 conditions of any environmental program delegated to the county
 140 by agreement with a state agency.

141 (g)~~(d)~~ For purposes of this subsection, a county ordinance
 142 that regulates the transportation or land application of
 143 domestic wastewater residuals or other forms of sewage sludge
 144 shall not be deemed to be duplication of regulation.

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

146 1. Enforce wetlands, springs protection, or stormwater
 147 ordinances, regulations, or rules adopted before July 1, 2003.

148 2. Enforce wetlands, springs protection, or stormwater
 149 ordinances, regulations, or rules pertaining to the Wekiva River
 150 Protection Area.

151 3. Enforce ordinances, regulations, or rules as directed
 152 by law or implemented consistent with the requirements of a
 153 program operated under a delegation agreement from a state
 154 agency or water management district.

155
 156 As used in this paragraph, the term "wetlands" has the same
 157 meaning as defined in s. 373.019.

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

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

167 Section 2. Section 163.3163, Florida Statutes, is created
 168 to read:

169 163.3163 Applications for development permits; disclosure
 170 and acknowledgement of contiguous sustainable agricultural
 171 land.—

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

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

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

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

190 (b) "Farm operation" has the same meaning as defined in s.
 191 823.14.

192 (c) "Sustainable agricultural land" means land classified
 193 as agricultural land pursuant to s. 193.461 which is used for a
 194 farm operation that uses current technology, based on science or

195 research and demonstrated measurable increases in productivity,
 196 to meet future food, feed, fiber, and energy needs, while
 197 considering the environmental impacts and the social and
 198 economic benefits to the rural communities.

199 (4) (a) Before a political subdivision issues a local land
 200 use permit, building permit, or certificate of occupancy for
 201 nonagricultural land contiguous to sustainable agricultural
 202 land, the political subdivision shall require that, as a
 203 condition of issuing the permit or certificate, the applicant
 204 for the permit or certificate sign and submit to the political
 205 subdivision, in a format that is recordable in the official
 206 records of the county in which the political subdivision is
 207 located, a written acknowledgement of contiguous sustainable
 208 agricultural land in the following form:

209
 210 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

211
 212 I, ... (name of applicant) ..., understand that my property
 213 located at ... (address of nonagricultural land) ..., as
 214 further described in the attached legal description, is
 215 contiguous to sustainable agricultural land located at
 216 ... (address of agricultural land) ..., as further described
 217 in the attached legal description.

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

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

224 Date: ...(date)....

225

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

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

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

235 205.064 Farm, aquacultural, grove, horticultural,
 236 floricultural, tropical piscicultural, and tropical fish farm
 237 products; certain exemptions.—

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

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

247 322.01 Definitions.—As used in this chapter:

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

249 (a) Operated principally on a farm, grove, or orchard in
 250 agricultural or horticultural pursuits and that is operated on

251 the roads of this state only incidentally to transportation
 252 between the owner's or operator's headquarters and the farm,
 253 grove, or orchard or between one farm, grove, or orchard and
 254 another; or

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

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

260 604.15 Dealers in agricultural products; definitions.—For
 261 the purpose of ss. 604.15–604.34, the following words and terms,
 262 when used, shall be construed to mean:

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

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

276 604.50 Nonresidential farm buildings and farm fences.—

277 (1) Notwithstanding any other law to the contrary, any
 278 nonresidential farm building or farm fence is exempt from the

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279 Florida Building Code and any county or municipal ~~building~~ code
 280 or fee, except for code provisions implementing local, state, or
 281 federal floodplain management regulations.

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

283 (a) "Nonresidential farm building" means any temporary or
 284 permanent building or support structure that is classified as a
 285 nonresidential farm building on a farm under s. 553.73(9)(c) or
 286 that is used primarily for agricultural purposes, is located on
 287 a farm that is not used as a residential dwelling, and is
 288 located on land that is an integral part of a farm operation or
 289 is classified as agricultural land under s. 193.461, and is not
 290 intended to be used as a residential dwelling. The term may
 291 include, but is not limited to, a barn, greenhouse, shade house,
 292 farm office, storage building, or poultry house.

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

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

297 624.4095 Premiums written; restrictions.-

298 (7) For purposes of this section and s. 624.407, with
 299 regard to capital and surplus required, gross written premiums
 300 for federal multiple-peril crop insurance that is ceded to the
 301 Federal Crop Insurance Corporation and authorized reinsurers
 302 shall not be included when calculating the insurer's gross
 303 writing ratio. The liabilities for ceded reinsurance premiums
 304 payable for federal multiple-peril crop insurance ceded to the
 305 Federal Crop Insurance Corporation and authorized reinsurers
 306 shall be netted against the asset for amounts recoverable from

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307 reinsurers. Each insurer that writes other insurance products
 308 together with federal multiple-peril crop insurance shall
 309 disclose in the notes to the annual and quarterly financial
 310 statement, or file a supplement to the financial statement that
 311 discloses, a breakout of the gross written premiums for federal
 312 multiple-peril crop insurance.

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

315 823.145 Disposal by open burning of certain materials
 316 ~~mulch plastic~~ used in agricultural operations.—Polyethylene
 317 agricultural mulch plastic; damaged, nonsalvageable, untreated
 318 wood pallets; and packing material that cannot be feasibly
 319 recycled, which are used in connection with agricultural
 320 operations related to the growing, harvesting, or maintenance of
 321 crops, may be disposed of by open burning provided that no
 322 public nuisance or any condition adversely affecting the
 323 environment or the public health is created thereby and that
 324 state or federal national ambient air quality standards are not
 325 violated.

326 Section 9. This act shall take effect July 1, 2010.