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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 driver's licenses;

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

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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

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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 the  
94 water quality or flood control benefit of:

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

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

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

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

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

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

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

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141 by agreement with a state agency.

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

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

147 1. Enforce wetlands, as defined in s. 373.019, springs  
148 protection, or stormwater ordinances, regulations, or rules  
149 adopted before July 1, 2003.

150 2. Enforce wetlands, as defined in s. 373.019, springs  
151 protection, or stormwater ordinances, regulations, or rules  
152 pertaining to the Wekiva River Protection Area.

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

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

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

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

168 163.3163 Applications for development permits; disclosure

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169 and acknowledgement of contiguous sustainable agricultural  
 170 land.—

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

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

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

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

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

191 (c) "Sustainable agricultural land" means land classified  
 192 as agricultural land pursuant to s. 193.461 which is used for a  
 193 farm operation that uses current technology, based on science or  
 194 research and demonstrated measurable increases in productivity,  
 195 to meet future food, feed, fiber, and energy needs, while  
 196 considering the environmental impacts and the social and

197 economic benefits to the rural communities.

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

208  
 209 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

210  
 211 I, ...(name of applicant)..., understand that my property  
 212 located at ...(address of nonagricultural land)..., as further  
 213 described in the attached legal description, is contiguous to  
 214 sustainable agricultural land located at ...(address of  
 215 agricultural land)..., as further described in the attached  
 216 legal description.

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

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

223 Date: ...(date)....

224

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

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

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

234 205.064 Farm, aquacultural, grove, horticultural,  
 235 floricultural, tropical piscicultural, and tropical fish farm  
 236 products; certain exemptions.—

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

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

246 322.01 Definitions.—As used in this chapter:

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

248 (a) Operated principally on a farm, grove, or orchard in  
 249 agricultural or horticultural pursuits and that is operated on  
 250 the roads of this state only incidentally for transportation  
 251 between the owner's or operator's headquarters and the farm,  
 252 grove, or orchard or between one farm, grove, or orchard and

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253 | another; or

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

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

259 |       604.15 Dealers in agricultural products; definitions.—For  
 260 | the purpose of ss. 604.15-604.34, the following words and  
 261 | terms, when used, shall be construed to mean:

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

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

275 |       604.50 Nonresidential farm buildings and farm fences.—

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

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

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

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

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

296 624.4095 Premiums written; restrictions.-

297 (7) For purposes of ss. 624.407 and 624.408 and this  
 298 section, with regard to capital and surplus required, gross  
 299 written premiums for federal multiple-peril crop insurance that  
 300 is ceded to the Federal Crop Insurance Corporation and  
 301 authorized reinsurers shall not be included when calculating the  
 302 insurer's gross writing ratio. The liabilities for ceded  
 303 reinsurance premiums payable for federal multiple-peril crop  
 304 insurance ceded to the Federal Crop Insurance Corporation and  
 305 authorized reinsurers shall be netted against the asset for  
 306 amounts recoverable from reinsurers. Each insurer that writes  
 307 other insurance products together with federal multiple-peril  
 308 crop insurance shall disclose in the notes to the annual and

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309 quarterly financial statement, or file a supplement to the  
 310 financial statement that discloses, a breakout of the gross  
 311 written premiums for federal multiple-peril crop insurance.

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

314 823.145 Disposal by open burning of certain materials  
 315 ~~mulch plastic~~ used in agricultural operations.—Polyethylene  
 316 agricultural mulch plastic; damaged, nonsalvageable, untreated  
 317 wood pallets; and packing material that cannot be feasibly  
 318 recycled, which are used in connection with agricultural  
 319 operations related to the growing, harvesting, or maintenance of  
 320 crops, may be disposed of by open burning provided that no  
 321 public nuisance or any condition adversely affecting the  
 322 environment or the public health is created thereby and that  
 323 state or federal national ambient air quality standards are not  
 324 violated.

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