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CS/HB 7103, Engrossed 1

2010 Legislature

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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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.—

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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:

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.

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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 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 which 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

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112 quantity measures required as part of a National Pollutant
 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

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140 conditions of any environmental program delegated to the county
 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, springs protection, or stormwater
 148 ordinances, regulations, or rules adopted before July 1, 2003.

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

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

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

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

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

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

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

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

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

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

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

191 (b) "Farm operation" has the same meaning as defined in s.
 192 823.14.

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

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

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

210
 211 ACKNOWLEDGEMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

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

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

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

225 Date: ... (date)....

226

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

231 (c) The Department of Agriculture and Consumer Services,
 232 in cooperation with the Department of Revenue, may adopt rules
 233 to 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

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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
 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

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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
 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 ~~is~~ 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

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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
315 to read:

316 823.145 Disposal by open burning of certain materials
317 ~~mulch plastic~~ used in agricultural operations.—Polyethylene
318 agricultural mulch plastic; damaged, nonsalvageable, untreated
319 wood pallets; and packing material that cannot be feasibly
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, 2010.