

CHAPTER 2021-115

Committee Substitute for Senate Bill No. 628

An act relating to urban agriculture; amending s. 604.40, F.S.; authorizing farm equipment used to transport farm products to be stored, maintained, or repaired within specified boundaries; exempting farm equipment used in urban agriculture from provisions requiring farm equipment to be located within specified boundaries; amending s. 604.50, F.S.; providing that nonresidential farm buildings, fences, or signs located on lands used for urban agriculture are not exempt from the Florida Building Code or local governmental regulations; defining the term “urban agriculture”; creating s. 604.73, F.S.; providing a short title; providing legislative findings and intent; defining terms; authorizing the Department of Agriculture and Consumer Services to approve municipal urban agricultural pilot projects; providing application requirements; providing for the number, duration, and renewal of pilot projects; requiring municipalities to submit annual reports to the department; requiring the department to submit an annual report to the Legislature; providing that urban agriculture is subject to specified municipal regulation under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 604.40, Florida Statutes, is amended to read:

604.40 Farm equipment.—

(1) Notwithstanding any other law, ordinance, rule, or policy to the contrary, all power-drawn, power-driven, or self-propelled equipment used on a farm or used to transport farm products may be stored, maintained, or repaired by the owner within the boundaries of the owner’s farm and at least 50 feet away from any public road without limitation.

(2) This section does not apply to farm equipment that is used in urban agriculture, as defined in s. 604.73(3).

Section 2. Subsection (1) of section 604.50, Florida Statutes, is amended, and paragraph (e) is added to subsection (2) of that section, to read:

604.50 Nonresidential farm buildings; farm fences; farm signs.—

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes, not including those lands used for urban agriculture, is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be erected, used, operated, or maintained in a manner that violates any of the standards provided in s. 479.11(4), (5)(a), and (6)-(8).

(2) As used in this section, the term:

(e) “Urban agriculture” has the same meaning as in s. 604.73(3).

Section 3. Section 604.73, Florida Statutes, is created to read:

604.73 Urban agriculture pilot projects; local regulation of urban agriculture.—

(1) SHORT TITLE.—This section shall be known and may be cited as the “Urban Agriculture Pilot Project Act.”

(2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that, due to the application of laws relating to agricultural activities, it is necessary to distinguish between farms on traditional rural farm land and the emerging trends towards urban agriculture. The Legislature acknowledges that the “coming to the nuisance” defense is reversed when residents bring agricultural uses to already-established, dense urbanized areas, and that municipalities should retain the right to reasonably regulate urban agriculture to protect existing urban land uses. The Legislature recognizes the ability of urban agriculture to spur economic development by providing for fresh foods in city centers, community revitalization, and the adaptive reuse of vacant lands. It is the intent of the Legislature that local governments be authorized to create urban agriculture pilot projects to regulate urban agriculture under certain conditions and to determine the effectiveness and impact of the pilot projects on the farming operations in the selected dense urbanized land areas of the state.

(3) DEFINITIONS.—As used in this section, the term:

(a) “Department” means the Department of Agriculture and Consumer Services.

(b) “Urban agriculture” means any new or existing noncommercial agricultural uses on land that is:

1. Within a dense urban land area, as described in s. 380.0651(3)(a);

2. Not classified as agricultural pursuant to s. 193.461;

3. Not zoned as agricultural as its principal use; and

4. Designated by a municipality for inclusion in an urban agricultural pilot project that has been approved by the department.

The term does not include vegetable gardens, as defined in s. 604.71(4), for personal consumption on residential properties.

(4) URBAN AGRICULTURAL PILOT PROJECTS.—

(a) The department may approve five municipalities in which urban agricultural pilot projects that meet the requirements of this section and

requirements adopted by department rule may be established. The rules adopted by the department must require, at a minimum, that a municipal applicant:

1. Has a population of 250,000 or more.

2. Submits to the department a proposal that includes a narrative description of the proposed pilot project, including the project location, farm products to be cultivated, community involvement, anticipated outcomes, nutrition and water use, fertilization management, and any other requirements specified by department rules.

(b) A pilot project shall be approved for an initial 3-year period and may be renewed for additional 3-year periods by mutual agreement between the department and municipality.

(c) A municipality shall submit a report providing a narrative explanation of the outcomes and impact of the pilot project to the department by January 1 for each year of the pilot project. The department shall submit a report on the outcomes and impacts of the pilot projects to the President of the Senate and Speaker of the House of Representatives.

(5) LOCAL REGULATION.—Notwithstanding s. 604.50, s. 823.14, or any other law to the contrary, urban agriculture is subject to applicable municipal regulations if:

(a) The urban agriculture activities occur on land included by a municipality in a pilot project approved by the department pursuant to this section.

(b) The municipality duly enacts local regulations applicable to urban agriculture.

(c) Before the reenactment of the regulations under paragraph (b), the municipality designates existing farm operations, as defined in s. 823.14(3)(b), within its jurisdiction as legally nonconforming.

Section 4. This act shall take effect July 1, 2021.

Approved by the Governor June 17, 2021.

Filed in Office Secretary of State June 17, 2021.