

Committee Substitute for
Committee Substitute for Senate Bill No. 1660

An act relating to community development and planning; creating s. 163.3162, F.S.; providing a short title; providing legislative findings and purpose with respect to agricultural activities and duplicative regulation; defining the terms “farm,” “farm operation,” and “farm product” for purposes of the act; prohibiting a county from adopting any ordinance, resolution, regulation, rule, or policy to prohibit or otherwise limit a bona fide farm operation on land that is classified as agricultural land under s. 193.461, F.S.; providing that the act does not limit the powers of a county under certain circumstances; clarifying that a farm operation may not expand its operations under certain circumstances; providing that the act does not limit the powers of certain counties; providing that certain county ordinances are not deemed to be a duplication of regulation; amending s. 193.461, F.S.; authorizing the governing body of a county to revoke the waiver of annual property classification; revising the date by which the property appraiser must provide notice to property owners; providing for waiver and revocation of the waiver of the notice and certification requirement for land classification; defining the term “extenuating circumstances” to include failure to return the agricultural classification form under certain circumstances; providing for effect of waiver of annual application requirements; providing effective dates.

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

Section 1. Section 163.3162, Florida Statutes, is created to read:

163.3162 Agricultural Lands and Practices Act.—

(1) SHORT TITLE.—This section may be cited as the “Agricultural Lands and Practices Act.”

(2) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, and improvement of agriculture will result in a general benefit to the health, safety, and welfare of the people of the state. It is the purpose of this act to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.

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

(a) “Farm” is as defined in s. 823.14.

(b) “Farm operation” is as defined in s. 823.14.

(c) “Farm product” means any plant, as defined in s. 581.011, or animal useful to humans and includes, but is not limited to, any product derived therefrom.

(4) DUPLICATION OF REGULATION.—Except as otherwise provided in this section and s. 487.051(2), and notwithstanding any other law, including any provision of chapter 125 or this chapter, a county may not exercise any of its powers to adopt any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented best-management practices, interim measures, or regulations developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district and adopted under chapter 120 as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

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

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

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

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

Section 2. Paragraphs (a) and (e) of subsection (3) of section 193.461, Florida Statutes, are amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.—

(3)(a) No lands shall be classified as agricultural lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 may file an application for the classification and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the classification, the property appraiser or the value adjustment board may grant the classification. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from ~~the property appraiser~~, the value adjustment board, or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or the land is reclassified as nonagricultural pursuant to subsection (4). The property appraiser must, no later than January ~~31~~ 15 of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither the ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements

of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. However, This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

Section 3. (1) For purposes of granting an agricultural classification for January 1, 2003, the term "extenuating circumstances," as used in section 193.461(3)(a), Florida Statutes, includes the failure of a property owner in a county that waived the annual application process to return the agricultural classification form or card, which return was required by operation of section 193.461(3)(e), Florida Statutes, as created by chapter 2002-18, Laws of Florida.

(2) Any waiver of the annual application granted under section 193.461(3)(a), Florida Statutes, which is in effect on December 31, 2002, shall remain in full force and effect until subsequently revoked as provided by section 193.461(3)(a), Florida Statutes.

Section 4. This act shall take effect July 1, 2003.

Approved by the Governor June 20, 2003.

Filed in Office Secretary of State June 20, 2003.