

163.3162 Agricultural Lands and Practices.—

(1) 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.

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

(a) "Farm" has the same meaning as provided in s. [823.14](#).

(b) "Farm operation" has the same meaning as provided 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.

(d) "Governmental entity" has the same meaning as provided in s. [164.1031](#). The term does not include a water management district, a water control district established under chapter 298, or a special district created by special act for water management purposes.

(3) 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) A governmental entity may not exercise any of its powers to adopt or enforce 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 adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district 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.

(b) A governmental entity may not charge a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural land pursuant to s. [193.461](#), if such agricultural activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if such agricultural 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.

(c) A governmental entity may not charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural land pursuant to s. [193.461](#), if the farm operation has a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.

(d) For each governmental entity that, before March 1, 2009, adopted a stormwater utility ordinance or resolution, adopted an ordinance or resolution establishing a municipal services benefit unit, or adopted a resolution stating the governmental entity's intent to use the uniform method of collection pursuant to s. [197.3632](#) for such stormwater ordinances, the governmental entity may continue to charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural pursuant to s.

[193.461](#), if the ordinance or resolution provides credits against the assessment or fee on a bona fide farm operation for the water quality or flood control benefit of:

1. The implementation of best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program;
2. The stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit; or
3. The implementation of best management practices or alternative measures which the landowner demonstrates to the governmental entity to be of equivalent or greater stormwater benefit than those provided by implementation of best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program, or stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

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

1. Enforce wetlands, springs protection, or stormwater ordinances, regulations, or rules adopted before July 1, 2003.
2. Enforce wetlands, springs protection, or stormwater ordinances, regulations, or rules pertaining to the Wekiva River Protection Area.
3. Enforce ordinances, regulations, or rules as directed by law or implemented consistent with the requirements of a program operated under a delegation agreement from a state agency or water management district.

As used in this paragraph, the term "wetlands" has the same meaning as defined in s. [373.019](#).

(j) The provisions of this subsection that limit a governmental entity's authority to adopt or enforce any ordinance, regulation, rule, or policy, or to charge any assessment or fee for

stormwater management, apply only to a bona fide farm operation as described in this subsection.

(k) This subsection does not apply to a municipal services benefit unit established before March 1, 2009, pursuant to s. [125.01\(1\)\(q\)](#), predominately for flood control or water supply benefits.

(4) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.—The owner of a parcel of land defined as an agricultural enclave under s. [163.3164](#) may apply for an amendment to the local government comprehensive plan pursuant to s. [163.3184](#). Such amendment is presumed not to be urban sprawl as defined in s. [163.3164](#) if it includes land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. This presumption may be rebutted by clear and convincing evidence. Each application for a comprehensive plan amendment under this subsection for a parcel larger than 640 acres must include appropriate new urbanism concepts such as clustering, mixed-use development, the creation of rural village and city centers, and the transfer of development rights in order to discourage urban sprawl while protecting landowner rights.

(a) The local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner. Compliance with the schedule in the written agreement constitutes good faith negotiations for purposes of paragraph (c).

(b) Upon conclusion of good faith negotiations under paragraph (a), regardless of whether the local government and owner reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel, the amendment must be transmitted to the state land planning agency for review pursuant to s. [163.3184](#). If the local government fails to transmit the amendment within 180 days after receipt of a complete application, the amendment must be immediately transferred to the state land planning agency for such review. A plan amendment transmitted to the state land planning agency submitted under this subsection is presumed not to be urban sprawl as defined in s. [163.3164](#). This presumption may be rebutted by clear and convincing evidence.

(c) If the owner fails to negotiate in good faith, a plan amendment submitted under this subsection is not entitled to the rebuttable presumption under this subsection in the negotiation and amendment process.

(d) Nothing within this subsection relating to agricultural enclaves shall preempt or replace any protection currently existing for any property located within the boundaries of the following areas:

1. The Wekiva Study Area, as described in s. [369.316](#); or
2. The Everglades Protection Area, as defined in s. [373.4592\(2\)](#).

History.—s. 1, ch. 2003-162; s. 2, ch. 2006-255; ss. 1, 9, ch. 2011-7; s. 5, ch. 2011-139; HJR 7103, 2011 Regular Session; s. 1, ch. 2012-83; s. 1, ch. 2013-239.