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For more information on Small Farms, visit our website at: http://smallfarms.ifas.ufl.edu or contact your local County Extension Agent.

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AG EXEMPTIONS, RIGHT TO FARM, AND OTHER REGULATIONS

Staci Braswell, Florida Farm Bureau Federation
Florida Farm Bureau Federation

- State’s largest general-interest agricultural association with over 141,000 member-families.
- Represents all agricultural commodity sectors in the State of Florida, including but not limited to:
  - Apiculture,
  - Aquaculture,
  - Livestock production,
  - Citrus,
  - Environmental horticulture,
  - Equine,
  - Forestry,
  - Peanuts,
  - Cotton,
  - Sod,
  - Sugar,
  - Fruits, and
  - Vegetables
OVERVIEW

- Legislative Session 2011
- Ag Exemptions
  - Farm Building and Fence Permits/Fees
  - Commercial Driver’s License
- Farm Equipment Storage, Maintenance and Repair
- Sales Tax Exemptions
- Right to Farm
- Fence Law
- Greenbelt Assessment
SESSION 2011: VETO OVERRIDE OF GENERAL AG BILL

- Prohibits local governments from enforcing duplicate regulations on agricultural lands.
- Prohibits counties from imposing tax assessment or fees for storm water management on agricultural lands with a discharge permit or where BMPs are implemented.
- Exempts nonresidential farm buildings and fences from any type of permits or fees.
- Allows the burning of all plastics, including rubber tubing, used on farms.
- Exempts farmers and ranchers from a local business tax (formerly known as an occupational license).
SESSION 2011: VETO OVERRIDE OF GENERAL AG BILL

- Requires signed waiver from anyone applying for a land use permit, building permit, or occupancy permit for non-agricultural land adjacent to agricultural land
  - Waiver indicates signer understands that agricultural land is an ongoing operation which produces odors, noise, dust, and other effects.
- Exempts operators of motor vehicles used primarily on a farm and operated on state roads only incidentally from needing a license to operate the vehicles.
- Allows FDACS to adopt rules establishing comprehensive BMPs for agricultural production and food safety.
§ 604.50, Florida Statutes
“...any nonresidential farm building is exempt from the Florida Building Code and any county or municipal building code.”

Any building or support structure used for agricultural purposes,

Located on a farm that is not used as a residential dwelling,

Located on land that is an integral part of a farm operation or is classified as agricultural land.
NONRESIDENTIAL FARM BUILDINGS

- § 553.73 (10), Florida Statutes, Florida Building Code
  - “The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:
    - (c) Non residential farm buildings on a farm.”
  - “The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule... exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare.”

- Recent legislation, exempts nonresidential farm buildings and fences from any type of permits or fees.
Farmers transporting farm supplies or farm machinery within 150 miles of their farm, or transporting agricultural products to or from the first place of storage or processing or directly to or from market, within 150 miles of their farm are not required to obtain a commercial driver’s license.

§ 322.53, F.S.
§ 604.40, Florida Statutes, Farm Equipment

“Notwithstanding any other law...all power-drawn, power-driven, or self-propelled equipment used on a farm 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.”
Sales Tax Exemptions

- Renting, leasing, letting or granting a license for use of agricultural property is tax exempt. (§ 212.031, F.S.)

- The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products are exempt from sales tax, provided such sales are made directly by the producer. (§ 212.07, F.S.)
  - This exemption does not apply to ornamental nursery stock offered for retail sale by the producer.

- Feeds for poultry, ostriches, and livestock are tax exempt. (§ 212.08, F.S.)
SALES TAX EXEMPTIONS

- Use tax does not apply to livestock and livestock products, to poultry and poultry products, or to farm and agricultural products, when produced by the farmer and used by the farmer, members of the farmer’s family and employees on the farm. (§ 212.07, F.S.)

- There shall be no tax on the sale, rental, lease, use, consumption, or storage for use in this state of power farm equipment used exclusively on a farm or in a forest for agricultural production or for fire prevention and suppression. (§ 212.08, F.S.)
  - Must sign a certificate of exclusive use
SALES TAX EXEMPTIONS

- Several items in agricultural use are exempt if a certificate is signed stating exclusive use: (§ 212.08, F.S.)
  - Nets designed/used exclusively by commercial fisheries;
  - Disinfectants, fertilizer, insecticides, pesticides, herbicides, fungicides, and weed killers used for:
    - Application on crops or groves, including commercial nurseries and home vegetable gardens,
    - Dairy barns or poultry farms for protection of poultry/livestock.
  - Portable containers or movable receptacles in which portable containers are placed, used for processing farm products;
  - Field and garden seeds, including flower seeds;
SALES TAX EXEMPTIONS

Several items in agricultural use are exempt if a certificate is signed stating exclusive use: (§ 212.08, F.S.)

- Nursery stock purchased for growing stock;
- Seeds and plants used to produce food for human consumption;
- Cloth, plastic, & other similar materials used for shade, mulch, or protection from frost or insects on a farm;
- Generators used on poultry farms;
- Cellophane wrappers, glues for tin and glass (apiarists), mailing cases for honey, shipping case, window cartons;
- Baling wire and twine used for baling hay, when used by a farmer to contain, produce, or process an agricultural commodity.
SALES TAX EXEMPTIONS

- **Diesel Fuel** (§ 212.0501, F.S.)
  - Diesel fuel consumed, used, or stored in any tractor, vehicle, or other equipment used exclusively on a farm or for processing farm products on the farm, is specifically exempt from 6% use tax.
    - No part of diesel fuel is to be used in any licensed motor vehicle on public highways.
  - Liquefied petroleum gas or other fuel used to heat a structure in which started pullets and broilers are raised is exempt from the tax imposed by this chapter
    - Must sign a certificate of exclusive use
SALES TAX EXEMPTIONS

- Gas used for certain agricultural purposes: (§ 212.08, F.S.)
  - Butane, propane, natural gas and all other forms of liquefied petroleum gases are tax exempt if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm.
    - Does not apply to the movement of farm vehicles or farm equipment between farms
    - No part of gasoline can be used in any vehicle or equipment driven or operated on public highways
  - Transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is tax exempt.
SALES TAX EXEMPTIONS

Electricity (§ 212.08, F.S.)

- Used directly or indirectly for production or processing of agricultural products on the farm is tax exempt.
- Electricity used for the exempt purpose must be separately metered.
**RIGHT TO FARM (§ 823.14, F.S.)**

- Protects reasonable agricultural activities conducted on a farm from nuisance suits.
- A farm that was not a nuisance when it was established is not subject to public or private nuisance suits after 1 year of operation.
- Exceptions:
  - Unsanitary conditions,
  - Improper treatment of waste,
  - Keeping animals that may give rise to diseases harmful to human or animal health,
  - Expansion of operations when adjacent to existing homestead or business.
RIGHT TO FARM (§ 823.14, F.S.)

- RTF Act does not protect a farmers from suits due to negligent acts, which could include:
  - Groundwater contamination, or
  - Pesticide misapplication.

- With few exceptions, the RTF Act limits the authority of local governments to adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or limit an activity of a bona fide farm operation on agricultural land as long as the activity is regulated through implemented best management practices or interim measures.
FENCE LAW

- Florida law does not impose on the owners of livestock and animals the duty to fence.
  - However, owners may be civilly or criminally liable for animals that stray onto public roads.
- Owners who intentionally, knowingly, or negligently permit their animals or livestock to run at large or stray upon public roads are liable for any resulting injuries or property damage, and may even be guilty of a 2\textsuperscript{nd} degree misdemeanor (§§ 588.15 and 588.24, F.S.)
- Officials have the right to impound and sell off animals found running at large, regardless of the owner’s liability (§§ 588.16-588.25, F.S.)
FENCE LAW

- A legal fence is at least 3 feet high and made of barbed or other soft wire of no less than 3 strands stretched securely on supports that are up to 20 feet apart or, when using battens, up to 60 feet apart for non-electric and 150 feet for electric using high-tensile wire. (§ 588.011, F.S.)
  - Other materials may be used if the requirements are substantially met.
  - May include a gateway if it meets the standards required of a legal fence and is constructed with a livestock guard at least 6 feet wide extending to each end of the opening.

- Having a “legal fence” does not automatically relieve a landowner from all potential liability.
The information provided in this presentation is intended for informational purposes only and shall not be construed as legal advice or a legal opinion of Florida Farm Bureau Federation.