

PROTECTION UNDER HB 909

Florida House Bill 909 (2022) – Agricultural Land Protection

HB 909, passed in 2022, strengthens protections for **bona fide agricultural operations** by **limiting the power of local governments**—like Miami-Dade County—to regulate farming practices.

Key Provisions:

- **Exclusive Authority:** Only the **Florida Department of Environmental Protection (DEP)** can create or enforce environmental regulations on agricultural lands, unless DEP has formally delegated that authority to a local agency (such as DERM) under §373.441, Florida Statutes, and Rule 62-344, Florida Administrative Code (F.A.C.) Local agencies like DERM cannot enforce environmental permitting or regulation on agricultural land without DEP delegation, and **HB 909 (2022)** reinforces this by **prohibiting counties from adopting environmental regulations that apply to agricultural operations** unless expressly authorized.
- **Preemption of Local Ordinances:** Counties and cities **cannot impose stricter rules** or environmental restrictions that conflict with state law.
- **Protects Agricultural Use:** Even if a local agency removes your agricultural exemption or claims a zoning violation, **state law still protects** your right to farm if your land was used in **good faith** for agriculture.

Why It Matters:

If DERM or Miami-Dade County tries to enforce wetlands rules or environmental regulations on farmland **without DEP involvement**, they may be acting beyond their legal authority—violating HB 909.

Protection from Miami-Dade County Code Enforcement

For Bona Fide Agricultural Properties

Key Legal Shields:

1. **HB 909 (2022):**

- Local governments—including **Miami-Dade County (MDC)**—**do not have legal authority** to impose or enforce environmental regulations on **bona fide agricultural lands**.

Under **HB 909 (2022)** and §163.3162, Florida Statutes (Agricultural Lands and Practices Act), **only the Florida Department of Environmental Protection (DEP)** has the authority to adopt or enforce environmental rules applicable to agricultural operations. This preempts counties from regulating such activities unless **DEP has formally delegated enforcement authority**, which must follow the procedures outlined in §373.441, F.S. and Rule 62-344, F.A.C.

Any attempt by Miami-Dade DERM, County Code Enforcement, or other local officials to regulate, fine, or restrict activities on agricultural property **without DEP delegation** is a direct violation of Florida law.

- Blocks DERM from using local ordinances to override legitimate farming activity.

2. §163.3162, Florida Statutes (Florida Right to Farm Act):

- Protects **existing and ongoing agricultural operations** from local zoning and nuisance laws.
- Prevents counties from declaring farm uses as code violations (e.g., noise, smell, dust, heavy equipment).

3. §823.14, F.S. (Agricultural Lands and Practices Act):

- Makes it **illegal for local governments** to restrict farm activities if the land is being **used in good faith** for agriculture.

Common Violations by MDC:

- **Targeting truck parking** or equipment storage, even if temporary for farm operations.
- **Fining landowners** under local rules not approved by the state.
- **Removing agricultural exemptions** without proper justification.

What You Can Do:

- Demand **state preemption** protections under HB 909.
- Cite Florida Statutes §163.3162 and §823.14 in your defense.
- Submit all complaints in writing and copy the **Florida Department of Agriculture and Consumer Services (FDACS)** and **Florida DEP**.

HB 909 (2022) – Protection from Police on Agricultural Property

What HB 909 Does:

House Bill 909, enacted in 2022, amended §163.3162, Florida Statutes (Florida Right to Farm Act), to **limit the authority of local governments—including police departments—** from enforcing local environmental regulations or land use restrictions on **bona fide agricultural lands**.

Key Protections:

1. Preemption of Local Laws:

- Only the **Florida Department of Environmental Protection (DEP)** has jurisdiction to regulate environmental practices on working farms.

- **Local police cannot enforce DERM's rules** or code violations tied to environmental regulations or land use if the land is actively and legally used for agriculture.

2. Police Actions Must Follow State Law:

- **Police cannot issue trespass warnings**, initiate arrests, or threaten action based solely on **DERM complaints or county environmental codes** if those actions interfere with state-protected farming practices.
- Any enforcement must align with **Florida state statutes**, not local ordinances that have been preempted.

3. Agricultural Use is Lawful Use:

- HB 909 affirms that farming activities (including storage, access, and operations) are **not subject to arbitrary local interference**, especially not through indirect police pressure.

Examples of Police Overreach (Now Blocked by HB 909):

- Being told you cannot use equipment, park vehicles, or have workers on site during inspections.
- Being threatened with fines or arrest based on **DERM Class IV permit rules, noise, or nuisance** laws.
- Being forced to grant access or halt operations without a **valid state order** or court warrant.

What to Do if Police Are Called to Your Farm:

1. **Ask: "Are you enforcing a local ordinance or a state law?"**
 - If they cite local DERM rules, **HB 909 likely protects you**.
2. **Provide Proof of Agricultural Use.**
 - Have documents ready: leases, tax bills, exemption forms, photos, planting/harvest logs.
3. **Remain Calm. Ask for a Supervisor.**
 - Police may not know the law. Request that they check with legal counsel or DEP.
4. **Document Everything.**
 - Record badge numbers, statements, and take photos/video. Follow up with a written complaint if needed.

Summary:

HB 909 blocks Miami-Dade County, DERM, and local police from interfering with your agricultural rights unless a valid **state or federal law is involved**. Police **cannot enforce DERM's agenda** under preempted local codes.

📌 **Agriculture is protected. Local intimidation is not.**

👉 Even if Miami-Dade County removed your agricultural exemption, the **state law HB 909** may still protect your property.

📖 **Why?**

✅ HB 909 states that only the **Florida Department of Environmental Protection (DEP)** has the authority to impose environmental rules on agricultural lands.

✅ **DERM and the County CANNOT** use local ordinances to impose fines or prohibit activities if the land was agricultural and used in **good faith** to remain in production.

✅ Removing the agricultural exemption because you rented space to trucks was **provoked by DERM's illegal actions**.

💣 Parking trucks was a **survival strategy**, not a permanent change of use.

✅ Agricultural use can be **restored**, and in the meantime, the County's truck ban may be an **illegal attempt to force you to sell** your land.

WARNING TO THE COUNTY

Any additional fines or actions may become part of a **multi-million-dollar lawsuit** under the **Bert J. Harris Act**.

PROPERTY OWNERS: DEFEND YOURSELVES — THIS LAND IS YOURS

🌐 www.MiamiDade.Watch

info@MiamiDade.Watch

SCENARIO 1:

“SURVIVAL MODE” FARMER

Facts:

- Farmer’s land was bona fide agricultural for decades (crops & livestock).
- After DERM’s wetland enforcement killed ag production, the farmer leased part of his land to truckers to pay taxes and hold onto the property.
- Now there are 200+ semis and industrial vehicles parked on 5 acres.
- Code Enforcement issues citations. Police threaten fines.

HB 909 Shield:

“Parking these vehicles was an emergency survival measure directly caused by DERM’s unlawful interference. HB 909 preempts any local code enforcement because this is still bona fide agricultural land under §193.461, F.S. and Right to Farm Act protections.”

Key Argument:

The landowner intends to return to ag production once DERM’s harassment ends. Parking trucks doesn’t negate HB 909’s protection because the core land use is agricultural and the county cannot force loss of ag use through its own misconduct.

SCENARIO 2:

“FULL INDUSTRIAL LEASE—BUT ON AG LAND”

Facts:

- Farmer, facing financial ruin, leased all 5 acres to a trucking company.
- No crops/livestock remain.
- Property appraiser removed agricultural exemption.
- Police and Code Enforcement issue tickets daily.

HB 909 Shield:

“HB 909’s preemption applies to agricultural lands regardless of tax classification. The removal of the ag exemption was itself caused by DERM’s illegal overreach, and current truck parking is not permanent. The land’s intended use remains agricultural.”

Key Argument:

Local ordinances cannot be used to enforce against ag lands or block restoration of ag use. HB 909 protects even during periods of non-use when the farmer plans to resume operations.

SCENARIO 3:

“MULTIPLE AGENCIES ATTACKING AT ONCE”

Facts:

- DERM issued a wetland violation.
- Code Enforcement issued fines for “unauthorized parking.”
- Police are citing truckers for trespassing.
- The farmer has 150 commercial vehicles on the land.

HB 909 Shield:

“HB 909 prohibits all local governments and agencies from enforcing environmental standards on agricultural land. DERM, Code Enforcement, and Police are acting outside their jurisdiction. Only DEP may regulate environmental standards under HB 909.”

Key Argument:

Each agency’s action contributes to an ongoing inordinate burden under the Bert J. Harris Act. This creates liability for the County for damages exceeding \$25M.

HB 909

Notice of Preemption: Serve all agencies a written notice citing HB 909 and demanding cessation of enforcement.

Bert J. Harris Augmentation: Document all fines and harassment as evidence for increased damages.

Injunction Option: File for a court injunction to stop all enforcement actions until legal jurisdiction is resolved.

HB 909 and requesting agencies to cease enforcement:

[Farmer or Landowner Name] [Property Address] [City, State, ZIP Code] [Phone Number] [Email Address]

[Date]

To: • Department of Environmental Resources Management (DERM) • County Code Enforcement Agency • County Police Department • County Property Appraiser

Subject: *Formal Notice of HB 909 Preemption and Demand for Cessation of Local Enforcement*

Dear Sir or Madam,

I, [Landowner's Name], as the rightful owner of the property located at [Property Address], hereby formally notify your agencies that this land qualifies as *bona fide agricultural* under §193.461 of the Florida Statutes and is protected by the Florida Right to Farm Act and House Bill 909 (HB 909).

Following DERM's unlawful interference which severely disrupted agricultural operations on the property, I was forced to implement emergency survival measures—including the partial or total lease of the land to trucking operations. This parking activity is temporary and does not constitute a permanent change in land use or negate its agricultural classification.

HB 909 explicitly **preempts all local governments and agencies from enforcing environmental codes, land use restrictions, or zoning standards on agricultural lands**, regardless of current tax classification or temporary periods of non-use. The property remains agricultural in intent and designation.

As such, I formally demand that your agencies:

1. Cease all enforcement actions—including fines, citations, and inspections—related to vehicle parking or alleged code violations.
2. Rescind any penalties or legal actions previously issued against the property or its occupants.
3. Acknowledge the applicability and legal preeminence of HB 909 over any conflicting local ordinances or standards.

Furthermore, I am documenting all fines, harassment, and regulatory actions as evidence for potential augmentation of damages under the Bert J. Harris Private Property Rights Protection Act. Your continued interference constitutes an inordinate burden and exposes the County to significant legal liability.

I respectfully request your prompt compliance with state law and a written confirmation of cessation of enforcement. Failure to do so may result in legal action including a court injunction and pursuit of damages exceeding \$25 million.

Thank you for your immediate attention to this matter.

Sincerely, [Signature] [Landowner Name]

DERM's Actions Violate Local, State, Federal Law—and Trigger Personal Liability

The actions taken by Miami-Dade County's Division of Environmental Resources Management (DERM) violate:

- **Local ordinances** by enforcing beyond legal limits,
- **State statutes** such as §163.3162, Florida Statutes (Agricultural Lands and Practices Act), and HB 909 (2022), which preempt local environmental regulation on bona fide agricultural land,
- **Federal laws** including the U.S. Constitution (Due Process, Equal Protection) and potentially the **Color of Law** doctrine under 42 U.S.C. §1983.

These violations may not only expose the **County** to civil claims—but also expose **individual DERM officials** to **personal liability**.

What Is Personal Liability?

Personal liability means that **government employees can be held individually responsible—in their own name and assets**—when they:

- Act **outside the scope of their legal authority**,
- Violate **clearly established laws**,
- Engage in **willful misconduct**, or
- Abuse power under **“color of law”** to deprive someone of constitutional rights.

This means **lawsuits can be brought directly against the official**, not just the agency—resulting in potential **loss of immunity**, personal judgments, and damage to reputation and career.

Bottom Line:

If DERM staff knowingly enforces unlawful orders or deprives landowners of rights under preempted local codes, they **risk personal liability**—regardless of agency backing. The law does **not protect individuals who knowingly act outside the law**.

Every DERM official is responsible for their own actions—even when “just following orders.”

Who Can Be Held Personally Liable?

1. Police Officers

- ✓ Can be sued under **42 U.S.C. §1983** for using authority to violate civil rights (e.g., unlawful searches, seizures, trespass on private land).
- ✓ **Qualified immunity** does *not* apply if the officer violates a "clearly established right."
- ✓ Example: Threatening arrest or trespassing on private land without lawful jurisdiction.

2. Code Enforcement Officers

- ✓ May be **personally liable** if they enforce local codes that are preempted by **state law** (e.g., HB 909 or §163.3162 F.S.).
- ✓ Can also be liable for **abuse of process, fraud, or due process violations** (e.g., no notice or hearing).
- ✓ Example: Issuing fines or citations for land use that's protected by state agricultural laws.

3. DERM Employees

- ✓ Especially at risk if they create false reports, manipulate data, or overstep authority (e.g., issuing cease-and-desist without proper jurisdiction).
- ✓ If they lie, retaliate, or fabricate findings, that can trigger **civil rights lawsuits** and **loss of official immunity**.
- ✓ Example: Issuing violations on legally exempt farmland, or acting without peer-reviewed science or inter-agency consent.

Bottom Line:

Any **government employee**—from local inspector to county attorney to sworn police—**can be sued personally** if they:

- Violate **constitutional rights** (e.g., 4th, 5th, or 14th Amendments),
- Violate **state preemption laws** (e.g., HB 909),
- Abuse power **under color of law**, or
- Take actions that are **willful, malicious, or outside the scope** of their job duties.

Their badge or title does **not** protect them from accountability if they cross the line.

If you know your rights, you can hold them accountable — individually.

Legal Disclaimer

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