

By the Committee on Agriculture; and Senators Siplin and Lynn

575-02800-11

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1 A bill to be entitled

2 An act relating to agricultural-related exemptions to
3 water management requirements; amending s. 373.406,
4 F.S.; revising an exemption for agricultural-related
5 activities to include certain impacts to surface
6 waters and wetlands; providing that the exemption
7 applies to certain agricultural lands and does not
8 apply to specified permitted activities; amending s.
9 373.407, F.S.; providing exclusive authority to the
10 Department of Agriculture and Consumer Services to
11 determine whether certain activities qualify for an
12 agricultural-related exemption under specified
13 conditions; requiring a specified memorandum of
14 agreement between the department and each water
15 management district; authorizing the department to
16 adopt rules; amending s. 403.927, F.S.; providing an
17 exemption from mitigation requirements for converted
18 agricultural lands under certain conditions; revising
19 the definition of the term "agricultural activities"
20 to include cultivating, fallowing, and leveling and to
21 provide for certain impacts to surface waters and
22 wetlands; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (2) of section 373.406, Florida
27 Statutes, is amended to read:

28 373.406 Exemptions.—The following exemptions shall apply:
29 (2) Notwithstanding s. 403.927, nothing herein, or in any

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30 rule, regulation, or order adopted pursuant hereto, shall be
31 construed to affect the right of any person engaged in the
32 occupation of agriculture, silviculture, floriculture, or
33 horticulture to alter the topography of any tract of land,
34 including, but not limited to, activities that may impede or
35 divert the flow of surface waters or adversely impact wetlands,
36 for purposes consistent with the practice of such occupation.
37 However, such alteration or activity may not be for the sole or
38 predominant purpose of impeding ~~impounding~~ or diverting the flow
39 of ~~obstructing~~ surface waters or adversely impacting wetlands.
40 This exemption is applicable only on lands classified as
41 agricultural pursuant to s. 193.461 and to activities regulated
42 pursuant to this part. This exemption does not apply to any
43 activities previously authorized by an environmental resource
44 permit, a permit for the management and storage of surface
45 waters issued pursuant to this part, or a dredge and fill permit
46 issued pursuant to chapter 403.

47 Section 2. Section 373.407, Florida Statutes, is amended to
48 read:

49 373.407 Determination of qualification ~~Memorandum of~~
50 ~~agreement~~ for an agricultural-related exemption. In the event of
51 a dispute as to the applicability of an exemption, No later than
52 July 1, 2007, the Department of Agriculture and Consumer
53 Services and each water management district shall enter into a
54 memorandum of agreement under which the Department of
55 Agriculture and Consumer Services shall assist in a
56 determination by a water management district or landowner may as
57 to whether an existing or proposed activity qualifies for the
58 exemption in s. 373.406(2). The memorandum of agreement shall

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59 ~~provide a process by which, upon the request of a water~~
60 ~~management district,~~ the Department of Agriculture and Consumer
61 Services to make a binding determination shall conduct a
62 ~~nonbinding review~~ as to whether an existing or proposed activity
63 qualifies for an agricultural-related exemption under ~~in~~ s.
64 373.406(2). The Department of Agriculture and Consumer Services
65 and each water management district shall enter into a memorandum
66 of agreement or amend an existing memorandum of agreement which
67 sets forth ~~shall provide~~ processes and procedures by which the
68 Department of Agriculture and Consumer Services shall undertake
69 its ~~this~~ review, make a determination effectively and
70 efficiently, and provide notice of its determination to the
71 applicable water management district or landowner. The
72 Department of Agriculture and Consumer Services has exclusive
73 authority to make the determination under this section and may
74 adopt rules to implement this section and s. 373.406(2) ~~issue a~~
75 ~~recommendation.~~

76 Section 3. Subsection (3) and paragraph (a) of subsection
77 (4) of section 403.927, Florida Statutes, are amended to read:

78 403.927 Use of water in farming and forestry activities.—

79 (3) If land served by a water management system is
80 converted to a use other than an agricultural use, the water
81 management system, or the portion of the system which serves
82 that land, will be subject to the provisions of this chapter.
83 However, mitigation under chapter 373 or this chapter to offset
84 any adverse effects caused by agricultural activities that
85 occurred before the conversion of the land is not required if
86 the activities occurred on the land in at least 4 of the last 7
87 years preceding the conversion.

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88 (4) As used in this section, the term:

89 (a) "Agricultural activities" includes all necessary
90 farming and forestry operations which are normal and customary
91 for the area, such as site preparation, clearing, fencing,
92 contouring to prevent soil erosion, soil preparation, plowing,
93 planting, cultivating, harvesting, fallowing, leveling,
94 construction of access roads, and placement of bridges and
95 culverts, provided such operations are not for the sole or
96 predominant purpose of impeding ~~do not impede~~ or diverting
97 ~~divert~~ the flow of surface waters or adversely impacting
98 wetlands.

99 Section 4. This act shall take effect July 1, 2011.