

1 A bill to be entitled
 2 An act relating to agricultural-related exemptions to
 3 water management requirements; amending s. 373.406, F.S.;
 4 revising an exemption for agricultural-related activities
 5 to include certain impacts to surface waters and wetlands;
 6 limiting applicability of the exemption; amending s.
 7 373.407, F.S.; providing exclusive authority to the
 8 Department of Agriculture and Consumer Services to
 9 determine whether certain activities qualify for an
 10 agricultural-related exemption under specified conditions;
 11 requiring a specified memorandum of agreement between the
 12 department and each water management district; authorizing
 13 the department to adopt rules; amending s. 403.927, F.S.;
 14 providing an exemption from mitigation requirements for
 15 converted agricultural lands under certain conditions;
 16 revising the definition of the term "agricultural
 17 activities" to include cultivating, fallowing, and
 18 leveling and to provide for certain impacts to surface
 19 waters and wetlands; providing an effective date.

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

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 23 Section 1. Subsection (2) of section 373.406, Florida
 24 Statutes, is amended to read:

25 373.406 Exemptions.—The following exemptions shall apply:

26 (2) Notwithstanding s. 403.927, nothing herein, or in any
 27 rule, regulation, or order adopted pursuant hereto, shall be
 28 construed to affect the right of any person engaged in the

29 occupation of agriculture, silviculture, floriculture, or
 30 horticulture to alter the topography of any tract of land,
 31 including, but not limited to, activities that may impede or
 32 divert the flow of surface waters or adversely impact wetlands,
 33 for purposes consistent with the practice of such occupation.
 34 However, such alteration or activity may not be for the sole or
 35 predominant purpose of impeding ~~impounding~~ or diverting the flow
 36 of ~~obstructing~~ surface waters or adversely impacting wetlands.
 37 This exemption applies to lands classified as agricultural
 38 pursuant to s. 193.461 and to activities requiring an
 39 environmental resource permit pursuant to this part. This
 40 exemption does not apply to any activities previously authorized
 41 by an environmental resource permit or a management and storage
 42 of surface water permit issued pursuant to this part or a dredge
 43 and fill permit issued pursuant to chapter 403.

44 Section 2. Section 373.407, Florida Statutes, is amended
 45 to read:

46 373.407 Determination of qualification ~~Memorandum of~~
 47 ~~agreement~~ for an agricultural-related exemption. In the event of
 48 a dispute as to the applicability of an exemption, No later than
 49 ~~July 1, 2007, the Department of Agriculture and Consumer~~
 50 ~~Services and each water management district shall enter into a~~
 51 ~~memorandum of agreement under which the Department of~~
 52 ~~Agriculture and Consumer Services shall assist in a~~
 53 ~~determination by a water management district~~ or landowner may ~~as~~
 54 ~~to whether an existing or proposed activity qualifies for the~~
 55 ~~exemption in s. 373.406(2). The memorandum of agreement shall~~
 56 ~~provide a process by which, upon the request of a water~~

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

73 Section 3. Subsection (3) and paragraph (a) of subsection
 74 (4) of section 403.927, Florida Statutes, are amended to read:
 75 403.927 Use of water in farming and forestry activities.—
 76 (3) If land served by a water management system is
 77 converted to a use other than an agricultural use, the water
 78 management system, or the portion of the system which serves
 79 that land, will be subject to the provisions of this chapter.
 80 However, mitigation under chapter 373 or this chapter to offset
 81 any adverse effects caused by agricultural activities that
 82 occurred before the conversion of the land is not required if
 83 the activities occurred on the land in the last 4 years
 84 preceding the conversion.

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

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

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