

By Senator Lee

20-00416A-19

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1                                   A bill to be entitled  
2       An act relating to wetland mitigation; amending s.  
3       373.4135, F.S.; revising the conditions under which a  
4       governmental entity may create or provide mitigation  
5       for a project other than its own under certain  
6       circumstances; providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

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10       Section 1. Paragraph (b) of subsection (1) of section  
11       373.4135, Florida Statutes, is amended to read:

12       373.4135 Mitigation banks and offsite regional mitigation.—

13       (1) The Legislature finds that the adverse impacts of  
14       activities regulated under this part may be offset by the  
15       creation, maintenance, and use of mitigation banks and offsite  
16       regional mitigation. Mitigation banks and offsite regional  
17       mitigation can enhance the certainty of mitigation and provide  
18       ecological value due to the improved likelihood of environmental  
19       success associated with their proper construction, maintenance,  
20       and management. Therefore, the department and the water  
21       management districts are directed to participate in and  
22       encourage the establishment of private and public mitigation  
23       banks and offsite regional mitigation. Mitigation banks and  
24       offsite regional mitigation should emphasize the restoration and  
25       enhancement of degraded ecosystems and the preservation of  
26       uplands and wetlands as intact ecosystems rather than alteration  
27       of landscapes to create wetlands. This is best accomplished  
28       through restoration of ecological communities that were  
29       historically present.

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30 (b) ~~Notwithstanding the provisions of this section,~~ A  
31 governmental entity may ~~not~~ create or provide mitigation for a  
32 project other than its own if the mitigation credits available  
33 from such mitigation are only sold or used when alternative  
34 mitigation credits are not available from a ~~unless the~~  
35 governmental entity uses land that was not previously purchased  
36 for conservation and unless the governmental entity provides the  
37 same financial assurances as required for mitigation bank banks  
38 permitted under s. 373.4136, as determined by the department or  
39 water management district. The restrictions in this paragraph do  
40 ~~does~~ not apply to:

41 1. Mitigation banks permitted before December 31, 2011,  
42 under s. 373.4136;

43 2. Offsite regional mitigation areas established before  
44 December 31, 2011, under subsection (6);

45 3. Mitigation for transportation projects under ss.  
46 373.4137 and 373.4139;

47 4. Mitigation for impacts from mining activities under s.  
48 373.41492;

49 5. Mitigation provided for single-family lots or homeowners  
50 under subsection (7);

51 6. Entities authorized in chapter 98-492, Laws of Florida;

52 7. Mitigation provided for electric utility impacts  
53 certified under part II of chapter 403; or

54 8. Mitigation provided on sovereign submerged lands under  
55 subsection (6).

56 Section 2. This act shall take effect July 1, 2019.