

1                   A bill to be entitled  
2     An act relating to mitigation banks; amending s.  
3     373.4136, F.S.; revising provisions for the release  
4     and use of mitigation bank credits; providing  
5     conditions for the use of out-of-service-area  
6     mitigation credits by project applicants; providing a  
7     methodology for determining the award of such credits;  
8     requiring mitigation banks to submit specified annual  
9     reports to the Department of Environmental Protection  
10    or water management district; requiring the department  
11    or water management district to submit specified  
12    annual reports to the Legislature; amending s. 704.06,  
13    F.S.; requiring certain water management districts,  
14    upon application by the owner of a parcel subject to a  
15    conservation easement, to release the conservation  
16    easement if specified conditions are met, including  
17    obtaining sufficient mitigation credits from a  
18    mitigation bank; providing for the valuation of the  
19    property upon such release; specifying that land  
20    released from the conservation easement may be used  
21    for development consistent with certain zoning;  
22    providing an effective date.

23  
24    Be It Enacted by the Legislature of the State of Florida:  
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26       **Section 1. Subsections (5) and (6) of section 373.4136,**  
27 **Florida Statutes, are amended to read:**

28       373.4136 Establishment and operation of mitigation banks.—

29       (5) SCHEDULE FOR CREDIT RELEASE.—After July 1, 2025, when  
30 issuing awarding mitigation credits to a mitigation bank permit,  
31 the department or the water management district shall adhere to  
32 the credit release schedule set forth in this subsection a  
33 scheduled for the release of ~~those~~ credits awarded by in the  
34 mitigation bank permit. A mitigation credit that has been  
35 released may be sold or used to offset adverse impacts from an  
36 activity regulated under this part.

37       (a) Thirty percent of awarded credits shall be released  
38 for the recording of the conservation easement and establishment  
39 of financial assurances required by the mitigation bank permit.  
40 If a preservation-only bank is used, 100 percent of awarded  
41 credits shall be released for the recording of the conservation  
42 easement and establishment of financial assurances required by  
43 the mitigation bank permit ~~The department or the water~~  
44 ~~management district shall allow a portion of the mitigation~~  
45 ~~credits awarded to a mitigation bank to be released for sale or~~  
46 ~~use prior to meeting all of the performance criteria specified~~  
47 ~~in the mitigation bank permit. The department or the water~~  
48 ~~management district shall allow release of all of a mitigation~~  
49 ~~bank's awarded mitigation credits only after the bank meets the~~  
50 ~~mitigation success criteria specified in the permit.~~

51       (b) Thirty percent of awarded credits shall be released  
52 following completion of initial construction activities as  
53 established by the mitigation bank permit.

54       (c) Twenty percent of awarded credits shall be released in  
55 increments as monitoring indicates interim performance criteria  
56 established by the mitigation bank permit are being met.

57       (d) Twenty percent of awarded credits shall be released  
58 upon meeting final success criteria established by the  
59 mitigation bank permit ~~The number of credits and schedule for~~  
60 ~~release shall be determined by the department or water~~  
61 ~~management district based upon the performance criteria for the~~  
62 ~~mitigation bank and the success criteria for each mitigation~~  
63 ~~activity. The release schedule for a specific mitigation bank or~~  
64 ~~phase thereof shall be related to the actions required to~~  
65 ~~implement the bank, such as site protection, site preparation,~~  
66 ~~earthwork, removal of wastes, planting, removal or control of~~  
67 ~~nuisance and exotic species, installation of structures, and~~  
68 ~~annual monitoring and management requirements for success. In~~  
69 ~~determining the specific release schedule for a bank, the~~  
70 ~~department or water management district shall consider, at a~~  
71 ~~minimum, the following factors:~~

72           1. ~~Whether the mitigation consists solely of preservation~~  
73 ~~or includes other types of mitigation.~~

74           2. ~~The length of time anticipated to be required before a~~  
75 ~~determination of success can be achieved.~~

76        ~~3. The ecological value to be gained from each action~~  
77        ~~required to implement the bank.~~

78        ~~4. The financial expenditure required for each action to~~  
79        ~~implement the bank.~~

80        (e) ~~(e)~~ Notwithstanding ~~the provisions of~~ this subsection,  
81        a mitigation ~~no~~ credit may not ~~shall~~ be released for freshwater  
82        wetland creation until the success criteria established ~~included~~  
83        in the mitigation bank permit for initial construction  
84        activities are met.

85        (f) ~~(d)~~ The withdrawal of mitigation credits from a  
86        mitigation bank shall be accomplished as a minor modification of  
87        the mitigation bank permit. A processing fee is not ~~shall not be~~  
88        required by the department or water management district for this  
89        minor modification.

90        (6) MITIGATION SERVICE AREA.—The department or water  
91        management district shall establish a mitigation service area  
92        for each mitigation bank permit. The department or water  
93        management district shall notify and consider comments received  
94        on the proposed mitigation service area from each local  
95        government within the proposed mitigation service area. Except  
96        as provided in this section ~~herein~~, mitigation credits may be  
97        withdrawn and used only to offset adverse impacts in the  
98        mitigation service area. The boundaries of the mitigation  
99        service area shall depend upon the geographic area where the  
100       mitigation bank could reasonably be expected to offset adverse

101 impacts. Mitigation service areas may overlap, and mitigation  
102 service areas for two or more mitigation banks may be approved  
103 for a regional watershed.

104 (a) In determining the boundaries of the mitigation  
105 service area, the department or the water management district  
106 shall consider the characteristics, size, and location of the  
107 mitigation bank and, at a minimum, the extent to which the  
108 mitigation bank:

109 1. Contributes to a regional integrated ecological  
110 network;

111 2. Will significantly enhance the water quality or  
112 restoration of an offsite receiving water body that is  
113 designated as an Outstanding Florida Water, a Wild and Scenic  
114 River, an aquatic preserve, a water body designated in a plan  
115 approved pursuant to the Surface Water Improvement and  
116 Management Act, or a nationally designated estuarine preserve;

117 3. Will provide for the long-term viability of endangered  
118 or threatened species or species of special concern;

119 4. Is consistent with the objectives of a regional  
120 management plan adopted or endorsed by the department or water  
121 management districts; and

122 5. Can reasonably be expected to offset specific types of  
123 wetland impacts within a specific geographic area. A mitigation  
124 bank need not be able to offset all expected impacts within its  
125 service area.

(b) The department and water management districts shall use regional watersheds to guide the establishment of mitigation service areas. Drainage basins established pursuant to s. 373.414(8) may be used as regional watersheds when they are established based on the hydrological or ecological characteristics of the basin. A mitigation service area may extend beyond the regional watershed in which the bank is located into all or part of other regional watersheds when the mitigation bank has the ability to offset adverse impacts outside that regional watershed. Similarly, a mitigation service area may be smaller than the regional watershed in which the mitigation bank is located when adverse impacts throughout the regional watershed cannot reasonably be expected to be offset by the mitigation bank because of local ecological or hydrological conditions.

(c) Once a mitigation bank service area has been established by the department or a water management district for a mitigation bank, such service area shall be accepted by all water management districts, local governments, and the department and shall be considered to have met the cumulative impact requirements of s. 373.414(8)(a) for impacts permitted within any regional watershed included in the mitigation bank service area and deemed regionally ecologically significant.

(d) If the requirements in s. 373.414(1)(b) and (8) are met, the following projects or activities regulated under this

part shall be eligible to use credits released from a mitigation bank to offset impacts resulting from such projects or activities ~~a mitigation bank, regardless of whether they are located within the mitigation service area:~~

1. Projects with adverse impacts partially located within the mitigation service area.

2. Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports listed in s. 311.09(1).

3. Projects with total adverse impacts of less than 1 acre in size.

4. Projects that meet the requirements of s. 373.414(1)(b) and the criteria in paragraphs (e)-(g).

(e) If the requirements of s. 373.414(1)(a) are met and an insufficient number or type of credits have been released within the mitigation bank service area in which the impacts associated with a proposed project are located, the project applicant is entitled to a one-time use of credits released from a mitigation bank outside the mitigation bank service area to offset impacts pursuant to s. 373.414(1)(b), as established by the procedure in paragraph (h), and upon verification by the department or water management district that mitigation banks within the regional watershed in which the adverse impacts are located lack the appropriate credit type to offset impacts associated with the proposed project. If the number of released credits within a

176 mitigation service area only partially offset the impacts  
177 associated with a proposed project in the mitigation service  
178 area, the project applicant may use out-of-service-area credits  
179 to account for the difference between the released credits  
180 available in the mitigation bank service area and the credits  
181 required to offset the impacts associated with the proposed  
182 project. In implementing this subsection, the department and  
183 water management districts shall apply a proximity factor to  
184 determine adequate compensatory mitigation as follows:

185 1. A multiplier may not be applied for use of out-of-  
186 service-area credits located within the same regional watershed  
187 as the proposed impacts.

188 2. A 1.2 multiplier shall be applied for use of out-of-  
189 service-area credits located within a regional watershed  
190 immediately adjacent to the regional watershed in which proposed  
191 impacts are located.

192 3. When credits are not available in the regional  
193 watershed immediately adjacent to the regional watershed in  
194 which the proposed impacts are located, an additional 0.25  
195 multiplier shall be applied for each additional regional  
196 watershed located outside the regional watershed immediately  
197 adjacent to the regional watershed in which the proposed impacts  
198 are located.

199 4. An additional 0.50 multiplier shall be applied after  
200 any multipliers required in subparagraphs 2. and 3., if the



201 mitigation used to offset impacts entails out-of-kind  
202 replacement which does not replace the same type of freshwater  
203 wetland or surface water impacted.

204 (f) Use of the multipliers in subparagraphs (e)2.-4. meets  
205 the requirements of s. 373.414(8)(a) for addressing cumulative  
206 impacts.

207 (g) Once a project applicant requests to use out-of-  
208 service-area credits, the department or water management  
209 district shall contact all mitigation banks within a mitigation  
210 service area encompassing the location of the proposed impacts  
211 within 3 business days after receipt of the request from the  
212 project applicant and request an accounting of available  
213 credits. The accounting may not include credits reserved for  
214 other project applicants. The mitigation banks contacted by the  
215 department or water management district shall provide the  
216 accounting within 5 business days after receipt of the request  
217 by the department or water management district. Upon receipt of  
218 the accounting from the mitigation banks, the department or  
219 water management district shall determine if sufficient credits  
220 are available to offset impacts associated with the proposed  
221 project and notify the project applicant of such determination.  
222 The project applicant may rely on the determination from the  
223 department or water management district for a period of 1 year  
224 after such determination.

225 (h) Beginning July 1, 2026, and each July 1 thereafter,

each mitigation bank in this state shall submit to the  
department or water management district a report with an  
accounting of the number and type of credits the mitigation has  
available for sale. The report may not include names of parties  
for which credits have been reserved or the contract price paid  
for the credits. The department or water management district  
shall compile the annual reports to provide an assessment of  
this state's mitigation banking system and submit a report to  
the President of the Senate and the Speaker of the House of  
Representatives on October 1, 2026, and each October 1  
thereafter.

**Section 2. Subsection (14) is added to section 704.06,**  
**Florida Statutes, to read:**

704.06 Conservation easements; creation; acquisition;  
enforcement.—

(14) (a) Upon application by the fee simple owner of a  
parcel of land subject to a conservation easement to a water  
management district, a water management district shall release  
the conservation easement if the following conditions are met:

1. The land subject to the easement is less than 15 acres  
and is bordered on three or more sides by impervious surfaces;

2. Any undeveloped adjacent parcels of land are less than  
15 acres and similarly bordered on three or more sides by  
impervious surfaces;

3. The land contains no historical, architectural,

251 archeological, or cultural significance; and

252 4. Before the release of the conservation easement, the  
253 applicant must have secured sufficient mitigation credits using  
254 the uniform mitigation assessment method from a mitigation bank  
255 located in this state to offset the loss of wetlands located on  
256 the land subject to the conservation easement.

257 (b) Upon the water management district's release of the  
258 conservation easement, the ad valorem taxes on the property  
259 shall be based on the just value of the property, and the  
260 property may be used for development consistent with the zoning  
261 designation of the adjacent lands.

262 **Section 3.** This act shall take effect July 1, 2025.