

**By** the Committees on Environmental Preservation and Conservation; and Agriculture; and Senators Siplin and Lynn

592-03430-11

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

25  
26 Be It Enacted by the Legislature of the State of Florida:

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

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30 373.406 Exemptions.—The following exemptions shall apply:

31 (2) Notwithstanding s. 403.927, nothing herein, or in any  
32 rule, regulation, or order adopted pursuant hereto, shall be  
33 construed to affect the right of any person engaged in the  
34 occupation of agriculture, silviculture, floriculture, or  
35 horticulture to alter the topography of any tract of land,  
36 including, but not limited to, activities that may impede or  
37 divert the flow of surface waters or adversely impact wetlands,  
38 for purposes consistent with the practice of such occupation.  
39 However, such alteration or activity may not be for the sole or  
40 predominant purpose of ~~impeding~~ ~~impounding~~ or ~~diverting the flow~~  
41 of ~~obstructing~~ surface waters or adversely impacting wetlands.  
42 This exemption applies to lands classified as agricultural  
43 pursuant to s. 193.461 and to activities requiring an  
44 environmental resource permit pursuant to this part. This  
45 exemption does not apply to any activities previously authorized  
46 by an environmental resource permit, a permit for the management  
47 and storage of surface waters issued pursuant to this part, or a  
48 dredge and fill permit issued pursuant to chapter 403.

49 Section 2. Section 373.407, Florida Statutes, is amended to  
50 read:

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

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

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

80 403.927 Use of water in farming and forestry activities.—

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

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88 the activities occurred on the land in the last 4 years  
89 preceding the conversion.

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

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

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