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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, F.S.;
4 revising an exemption for agricultural-related activities
5 to include certain impacts to surface waters and wetlands;
6 providing for retroactive application of the exemption;
7 amending s. 373.407, F.S.; providing exclusive authority
8 to the 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.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
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

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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 has retroactive application to July 1, 1984.

38 Section 2. Section 373.407, Florida Statutes, is amended
 39 to read:

40 373.407 Determination of qualification ~~Memorandum of~~
 41 ~~agreement~~ for an agricultural-related exemption.—In the event of
 42 a dispute as to the applicability of an exemption, No later than
 43 ~~July 1, 2007, the Department of Agriculture and Consumer~~
 44 ~~Services and each water management district shall enter into a~~
 45 ~~memorandum of agreement under which the Department of~~
 46 ~~Agriculture and Consumer Services shall assist in a~~
 47 ~~determination by a water management district~~ or landowner may as
 48 ~~to whether an existing or proposed activity qualifies for the~~
 49 ~~exemption in s. 373.406(2). The memorandum of agreement shall~~
 50 ~~provide a process by which, upon the request of a water~~
 51 ~~management district, the Department of Agriculture and Consumer~~
 52 ~~Services~~ to make a binding determination shall conduct a
 53 ~~nonbinding review~~ as to whether an existing or proposed activity
 54 qualifies for an agricultural-related exemption under ~~in~~ s.
 55 373.406(2). The Department of Agriculture and Consumer Services
 56 and each water management district shall enter into a memorandum

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57 | of agreement or amend an existing memorandum of agreement which
 58 | sets forth ~~shall provide~~ processes and procedures by which the
 59 | Department of Agriculture and Consumer Services shall undertake
 60 | its ~~this~~ review, make a determination effectively and
 61 | efficiently, and provide notice of its determination to the
 62 | applicable water management district or landowner. The
 63 | Department of Agriculture and Consumer Services has exclusive
 64 | authority to make the determination under this section and may
 65 | adopt rules to implement this section and s. 373.406(2) issue a
 66 | recommendation.

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

69 | 403.927 Use of water in farming and forestry activities.-

70 | (3) If land served by a water management system is
 71 | converted to a use other than an agricultural use, the water
 72 | management system, or the portion of the system which serves
 73 | that land, will be subject to the provisions of this chapter.
 74 | However, mitigation under chapter 373 or this chapter to offset
 75 | any adverse effects caused by agricultural activities that
 76 | occurred before the conversion of the land is not required if
 77 | the activities occurred on the land in at least 4 of the last 7
 78 | years preceding the conversion.

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

80 | (a) "Agricultural activities" includes all necessary
 81 | farming and forestry operations which are normal and customary
 82 | for the area, such as site preparation, clearing, fencing,
 83 | contouring to prevent soil erosion, soil preparation, plowing,
 84 | planting, cultivating, harvesting, fallowing, leveling,

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85 construction of access roads, and placement of bridges and
86 culverts, provided such operations are not for the sole or
87 predominant purpose of impeding ~~do not impede~~ or diverting
88 ~~divert~~ the flow of surface waters or adversely impacting
89 wetlands.

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