

CS/CS/HB 421

2011

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 clarifying the purposes of such activities; limiting  
7 applicability of the exemption; amending s. 373.407, F.S.;  
8 providing exclusive authority to the Department of  
9 Agriculture and Consumer Services to determine whether  
10 certain activities qualify for an agricultural-related  
11 exemption under specified conditions; requiring a  
12 specified memorandum of agreement between the department  
13 and each water management district; authorizing the  
14 department to adopt rules; amending s. 403.927, F.S.;  
15 providing an exemption from mitigation requirements for  
16 converted agricultural lands under certain conditions;  
17 revising the definition of the term "agricultural  
18 activities" to include cultivating, fallowing, leveling,  
19 and implementation of specified practices and standards  
20 and to provide for certain impacts to surface waters and  
21 wetlands; providing an effective date.  
22

23 Be It Enacted by the Legislature of the State of Florida:  
24

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

27 373.406 Exemptions.—The following exemptions shall apply:  
28 (2) Notwithstanding s. 403.927, nothing herein, or in any

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

47 Section 2. Section 373.407, Florida Statutes, is amended  
 48 to read:

49 373.407 Determination of qualification ~~Memorandum of~~  
 50 ~~agreement~~ for an agricultural-related exemption. In the event of  
 51 a dispute as to the applicability of an exemption, No later than  
 52 ~~July 1, 2007, the Department of Agriculture and Consumer~~  
 53 ~~Services and each water management district shall enter into a~~  
 54 ~~memorandum of agreement under which the Department of~~  
 55 ~~Agriculture and Consumer Services shall assist in a~~  
 56 ~~determination by~~ a water management district or landowner may as

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

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

78 403.927 Use of water in farming and forestry activities.—

79 (3) If land served by a water management system is  
80 converted to a use other than an agricultural use, the water  
81 management system, or the portion of the system which serves  
82 that land, will be subject to the provisions of this chapter.  
83 However, mitigation under chapter 373 or this chapter to offset  
84 any adverse effects caused by agricultural activities that

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85 occurred before the conversion of the land is not required if  
86 the activities occurred on the land in the last 4 years  
87 preceding the conversion.

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

89 (a) "Agricultural activities" includes all necessary  
90 farming and forestry operations which are normal and customary  
91 for the area, such as site preparation, clearing, fencing,  
92 contouring to prevent soil erosion, soil preparation, plowing,  
93 planting, cultivating, harvesting, fallowing, leveling,  
94 construction of access roads, ~~and~~ placement of bridges and  
95 culverts, and implementation of best management practices  
96 adopted by the Department of Agriculture and Consumer Services  
97 or practice standards adopted by the United States Department of  
98 Agriculture's Natural Resources Conservation Service, provided  
99 such operations are not for the sole or predominant purpose of  
100 impeding ~~do not impede~~ or diverting ~~divert~~ the flow of surface  
101 waters or adversely impacting wetlands.

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