

By the Committee on Community Affairs; and Senators Lee and Farmer

578-02722-19

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1 A bill to be entitled
2 An act relating to wetland mitigation; amending s.
3 373.4135, F.S.; authorizing a local government to
4 allow permittee-responsible mitigation on lands
5 purchased and owned by a local government for
6 conservation purposes under certain circumstances;
7 requiring such mitigation to meet specified
8 requirements; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
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12 Section 1. Paragraph (b) of subsection (1) of section
13 373.4135, Florida Statutes, is amended to read:

14 373.4135 Mitigation banks and offsite regional mitigation.—

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

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30 through restoration of ecological communities that were
31 historically present.

32 (b) The Legislature recognizes the importance of mitigation
33 banks as an appropriate and allowable mitigation alternative to
34 permittee-responsible mitigation. However, the Legislature also
35 recognizes that certain timing and geographical constraints
36 could result in the unavailability of mitigation bank credits
37 for a certain project upon completion of the project's
38 application. If state and federal mitigation credits are not
39 available to offset the adverse impacts of a project, a local
40 government may allow permittee-responsible mitigation consisting
41 of the restoration or enhancement of lands purchased and owned
42 by a local government for conservation purposes, and such
43 mitigation must conform to the permitting requirements of s.
44 373.4136. Except where a local government has allowed a public
45 or private mitigation project to be created on land it has
46 purchased for conservation purposes pursuant to this paragraph
47 ~~Notwithstanding the provisions of this section,~~ a governmental
48 entity may not create or provide mitigation for a project other
49 than its own unless the governmental entity uses land that was
50 not previously purchased for conservation and unless the
51 governmental entity provides the same financial assurances as
52 required for mitigation banks permitted under s. 373.4136. This
53 paragraph does not apply to:

54 1. Mitigation banks permitted before December 31, 2011,
55 under s. 373.4136;

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

58 3. Mitigation for transportation projects under ss.

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59 373.4137 and 373.4139;

60 4. Mitigation for impacts from mining activities under s.
61 373.41492;

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

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

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

67 8. Mitigation provided on sovereign submerged lands under
68 subsection (6).

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