

Publications

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Florida's SB 492 and the Future of Wetland Development

Key Takeaways

- Effective July 1, 2025, SB 492 makes significant revisions to Florida's wetland mitigation banking framework, creating new flexibility for developers but also adding compliance considerations that will affect project planning and permitting.
- The law allows developers to use credits outside a mitigation bank's designated service area, subject to regulatory approval. This flexibility can help avoid project delays but comes with proximity-based multipliers that may significantly increase the number of credits and overall costs required.
- SB 492 also establishes a standardized framework for when mitigation credits are released, giving developers and lenders greater predictability for financing and construction planning.
- New multiplier rules and standardized release schedules mark a shift from the prior case-by-case system, requiring stakeholders to closely track credit availability and factor compliance obligations into early project planning.

Significant changes to Florida's wetland mitigation banking framework were introduced on June 26, 2025, when Florida Senate Bill 492 (SB 492) was signed into law. Effective July 1, 2025, the law allows developers to purchase credits from mitigation banks outside the project's watershed when local credits are unavailable, standardizes mitigation credit release schedules — allowing credits to be issued before full ecological restoration is complete — and creates new reporting requirements. For developers and lenders, the law provides greater flexibility and predictability for planning and financing projects but may also increase costs when out-of-watershed credits are required.

This alert summarizes the key provisions of SB 492, outlines its implications for project planning and permitting in Florida and highlights steps stakeholders should take to ensure compliance with the new law.

Key Changes Under SB 492

Out-of-Watershed Credits

Under SB 492, developers may now purchase credits from mitigation banks *outside* the

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local watershed if state regulators confirm that credits from the local watershed are insufficient. When credits are purchased from outside the project's watershed, the state applies "multiplier adjustments" to determine how many credits must be purchased to offset the same impact. Essentially, the farther the credit source is from the project site or the less similar the watershed type, the higher the multiplier.

Specifically:

- Credits within the project's watershed carry no multiplier;
- Credits from an adjacent watershed adds a 1.2 multiplier;
- Each additional watershed crossed adds a 0.25 multiplier; and
- An additional 0.50 multiplier is applied if the credits are from a waterbody not similar to the one impacted by the project.

This framework is designed to reduce potential project delays by allowing developers to access credits beyond the immediate watershed, rather than waiting for new banks or credit releases to become available within the same service area. However, depending on the distance and watershed type, the multipliers can potentially significantly increase the number of credits — and therefore the cost — required for compliance.

Standardized Credit Release Schedules

SB 492 also establishes a new standardized schedule for the release of mitigation credits, replacing the case-by-case approach previously used by regulators. Under this new framework, credit releases will now be tied to specific milestones set forth in SB 492, Section 1:

- 30% of credits are released when the conservation easement is recorded and financial assurances are secured;
- 30% are released when initial construction activities are completed;
- 20% are released after satisfying performance benchmarks identified in the mitigation bank permit; and
- The final 20% are released once all success criteria established by the mitigation bank permit are met.

This new standardized release schedule gives developers and lenders greater certainty about when credits will become available — a key factor in securing financing and planning construction activities.

Annual Reporting Requirements

Finally, SB 492 introduced annual reporting requirements for mitigation banks, with credit availability data compiled into a statewide summary for the legislature. This creates new transparency around credit availability and gives developers better visibility into market conditions, enabling them to assess regional availability more effectively and incorporate these insights into early development planning.

What This Means for Developers and Lenders

While SB 492 has created notable changes to Florida's wetland mitigation banking scheme, the changes are largely favorable to development and lender interests.

We recommend developers and lenders:

- Review current and planned projects to determine whether local credit limitations may require the use of out-of-watershed credits and factor in potential multiplier costs.

- Develop a system to track credit release schedules and annual statewide credit availability reports as they are published.
- Continue working closely with environmental and real estate counsel to obtain approvals from state and local agencies and ensure projects are compliant with recordkeeping requirements.

SB 492 has the ability to elevate mitigation banking from a segmented, case-by-case system to a more predictable, structured approach. By introducing standardized credit-release benchmarks and proximity-based multipliers, the law should provide much needed flexibility for developers, while maintaining and safeguarding Florida's unique environmental features.

For questions relating to SB 492 and its impact on the real estate market in Florida, please contact a member of our Real Estate or Environmental team.