

By Representative Clarke

1 A bill to be entitled
2 An act relating to environmental protection;
3 amending s. 403.813, F.S.; providing an
4 exemption from permitting requirements for
5 certain floating vessel platforms or floating
6 boat lifts of limited size that are not used
7 for commercial purposes; authorizing the
8 Department of Environmental Protection to adopt
9 by rule a general permit for certain nonexempt
10 floating vessel platforms or floating boat
11 lifts; providing for use of certain state lands
12 under such general permits; providing an
13 exemption from local regulation; providing an
14 effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (2) of section 403.813, Florida
19 Statutes, is amended, and subsection (3) of said section is
20 reenacted, to read:

21 403.813 Permits issued at district centers;
22 exceptions.--

23 (2) No permit under this chapter, chapter 373, chapter
24 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
25 1949, Laws of Florida, shall be required for activities
26 associated with the following types of projects; however,
27 except as otherwise provided in this subsection, nothing in
28 this subsection relieves an applicant from any requirement to
29 obtain permission to use or occupy lands owned by the Board of
30 Trustees of the Internal Improvement Trust Fund or any water
31 management district in its governmental or proprietary

1 capacity or from complying with applicable local pollution
2 control programs authorized under this chapter or other
3 requirements of county and municipal governments:

4 (a) The installation of overhead transmission lines,
5 with support structures which are not constructed in waters of
6 the state and which do not create a navigational hazard.

7 (b) The installation and repair of mooring pilings and
8 dolphins associated with private docking facilities or piers
9 and the installation of private docks, piers and recreational
10 docking facilities, or piers and recreational docking
11 facilities of local governmental entities when the local
12 governmental entity's activities will not take place in any
13 manatee habitat, any of which docks:

14 1. Has 500 square feet or less of over-water surface
15 area for a dock which is located in an area designated as
16 Outstanding Florida Waters or 1,000 square feet or less of
17 over-water surface area for a dock which is located in an area
18 which is not designated as Outstanding Florida Waters;

19 2. Is constructed on or held in place by pilings or is
20 a floating dock which is constructed so as not to involve
21 filling or dredging other than that necessary to install the
22 pilings;

23 3. Shall not substantially impede the flow of water or
24 create a navigational hazard;

25 4. Is used for recreational, noncommercial activities
26 associated with the mooring or storage of boats and boat
27 paraphernalia; and

28 5. Is the sole dock constructed pursuant to this
29 exemption as measured along the shoreline for a distance of 65
30 feet, unless the parcel of land or individual lot as platted
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1 is less than 65 feet in length along the shoreline, in which
2 case there may be one exempt dock allowed per parcel or lot.

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4 Nothing in this paragraph shall prohibit the department from
5 taking appropriate enforcement action pursuant to this chapter
6 to abate or prohibit any activity otherwise exempt from
7 permitting pursuant to this paragraph if the department can
8 demonstrate that the exempted activity has caused water
9 pollution in violation of this chapter.

10 (c) The installation and maintenance to design
11 specifications of boat ramps on artificial bodies of water
12 where navigational access to the proposed ramp exists or the
13 installation of boat ramps open to the public in any waters of
14 the state where navigational access to the proposed ramp
15 exists and where the construction of the proposed ramp will be
16 less than 30 feet wide and will involve the removal of less
17 than 25 cubic yards of material from the waters of the state,
18 and the maintenance to design specifications of such ramps;
19 however, the material to be removed shall be placed upon a
20 self-contained upland site so as to prevent the escape of the
21 spoil material into the waters of the state.

22 (d) The replacement or repair of existing docks and
23 piers, except that no fill material is to be used and provided
24 that the replacement or repaired dock or pier is in the same
25 location and of the same configuration and dimensions as the
26 dock or pier being replaced or repaired.

27 (e) The restoration of seawalls at their previous
28 locations or upland of, or within 1 foot waterward of, their
29 previous locations. However, this shall not affect the
30 permitting requirements of chapter 161, and department rules

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1 shall clearly indicate that this exception does not constitute
2 an exception from the permitting requirements of chapter 161.
3 (f) The performance of maintenance dredging of
4 existing manmade canals, channels, intake and discharge
5 structures, and previously dredged portions of natural water
6 bodies within drainage rights-of-way or drainage easements
7 which have been recorded in the public records of the county,
8 where the spoil material is to be removed and deposited on a
9 self-contained, upland spoil site which will prevent the
10 escape of the spoil material into the waters of the state,
11 provided that no more dredging is to be performed than is
12 necessary to restore the canals, channels, and intake and
13 discharge structures, and previously dredged portions of
14 natural water bodies, to original design specifications or
15 configurations, provided that the work is conducted in
16 compliance with s. 370.12(2)(d), provided that no significant
17 impacts occur to previously undisturbed natural areas, and
18 provided that control devices and best management practices
19 for erosion and sediment control are utilized to prevent bank
20 erosion and scouring and to prevent turbidity, dredged
21 material, and toxic or deleterious substances from discharging
22 into adjacent waters during maintenance dredging. Further, for
23 maintenance dredging of previously dredged portions of natural
24 water bodies within recorded drainage rights-of-way or
25 drainage easements, an entity that seeks an exemption must
26 notify the department or water management district, as
27 applicable, at least 30 days prior to dredging and provide
28 documentation of original design specifications or
29 configurations where such exist. This exemption applies to all
30 canals and previously dredged portions of natural water bodies
31 within recorded drainage rights-of-way or drainage easements

1 constructed prior to April 3, 1970, and to those canals and
2 previously dredged portions of natural water bodies
3 constructed on or after April 3, 1970, pursuant to all
4 necessary state permits. This exemption does not apply to the
5 removal of a natural or manmade barrier separating a canal or
6 canal system from adjacent waters. When no previous permit
7 has been issued by the Board of Trustees of the Internal
8 Improvement Trust Fund or the United States Army Corps of
9 Engineers for construction or maintenance dredging of the
10 existing manmade canal or intake or discharge structure, such
11 maintenance dredging shall be limited to a depth of no more
12 than 5 feet below mean low water. The Board of Trustees of the
13 Internal Improvement Trust Fund may fix and recover from the
14 permittee an amount equal to the difference between the fair
15 market value and the actual cost of the maintenance dredging
16 for material removed during such maintenance dredging.
17 However, no charge shall be exacted by the state for material
18 removed during such maintenance dredging by a public port
19 authority. The removing party may subsequently sell such
20 material; however, proceeds from such sale that exceed the
21 costs of maintenance dredging shall be remitted to the state
22 and deposited in the Internal Improvement Trust Fund.

23 (g) The maintenance of existing insect control
24 structures, dikes, and irrigation and drainage ditches,
25 provided that spoil material is deposited on a self-contained,
26 upland spoil site which will prevent the escape of the spoil
27 material into waters of the state. In the case of insect
28 control structures, if the cost of using a self-contained
29 upland spoil site is so excessive, as determined by the
30 Department of Health, pursuant to s. 403.088(1), that it will
31 inhibit proposed insect control, then-existing spoil sites or

1 dikes may be used, upon notification to the department. In
2 the case of insect control where upland spoil sites are not
3 used pursuant to this exemption, turbidity control devices
4 shall be used to confine the spoil material discharge to that
5 area previously disturbed when the receiving body of water is
6 used as a potable water supply, is designated as shellfish
7 harvesting waters, or functions as a habitat for commercially
8 or recreationally important shellfish or finfish. In all
9 cases, no more dredging is to be performed than is necessary
10 to restore the dike or irrigation or drainage ditch to its
11 original design specifications.

12 (h) The repair or replacement of existing functional
13 pipes or culverts the purpose of which is the discharge or
14 conveyance of stormwater. In all cases, the invert elevation,
15 the diameter, and the length of the culvert shall not be
16 changed. However, the material used for the culvert may be
17 different from the original.

18 (i) The construction of private docks and seawalls in
19 artificially created waterways where such construction will
20 not violate existing water quality standards, impede
21 navigation, or affect flood control. This exemption does not
22 apply to the construction of vertical seawalls in estuaries or
23 lagoons unless the proposed construction is within an existing
24 manmade canal where the shoreline is currently occupied in
25 whole or part by vertical seawalls.

26 (j) The construction and maintenance of swales.

27 (k) The installation of aids to navigation and buoys
28 associated with such aids, provided the devices are marked
29 pursuant to s. 327.40.

30 (l) The replacement or repair of existing open-trestle
31 foot bridges and vehicular bridges that are 100 feet or less

1 in length and two lanes or less in width, provided that no
2 more dredging or filling of submerged lands is performed other
3 than that which is necessary to replace or repair pilings and
4 that the structure to be replaced or repaired is the same
5 length, the same configuration, and in the same location as
6 the original bridge. No debris from the original bridge shall
7 be allowed to remain in the waters of the state.

8 (m) The installation of subaqueous transmission and
9 distribution lines laid on, or embedded in, the bottoms of
10 waters in the state, except in Class I and Class II waters and
11 aquatic preserves, provided no dredging or filling is
12 necessary.

13 (n) The replacement or repair of subaqueous
14 transmission and distribution lines laid on, or embedded in,
15 the bottoms of waters of the state.

16 (o) The construction of private seawalls in wetlands
17 or other surface waters where such construction is between and
18 adjoins at both ends existing seawalls; follows a continuous
19 and uniform seawall construction line with the existing
20 seawalls; is no more than 150 feet in length; and does not
21 violate existing water quality standards, impede navigation,
22 or affect flood control. However, in estuaries and lagoons the
23 construction of vertical seawalls is limited to the
24 circumstances and purposes stated in s. 373.414(5)(b)1.-4.
25 This paragraph does not affect the permitting requirements of
26 chapter 161, and department rules must clearly indicate that
27 this exception does not constitute an exception from the
28 permitting requirements of chapter 161.

29 (p) The restoration of existing insect control
30 impoundment dikes which are less than 100 feet in length. Such
31 impoundments shall be connected to tidally influenced waters

1 for 6 months each year beginning September 1 and ending
2 February 28 if feasible or operated in accordance with an
3 impoundment management plan approved by the department. A
4 dike restoration may involve no more dredging than is
5 necessary to restore the dike to its original design
6 specifications. For the purposes of this paragraph,
7 restoration does not include maintenance of impoundment dikes
8 of operating insect control impoundments.

9 (q) The construction, operation, or maintenance of
10 stormwater management facilities which are designed to serve
11 single-family residential projects, including duplexes,
12 triplexes, and quadruplexes, if they are less than 10 acres
13 total land and have less than 2 acres of impervious surface
14 and if the facilities:

15 1. Comply with all regulations or ordinances
16 applicable to stormwater management and adopted by a city or
17 county;

18 2. Are not part of a larger common plan of development
19 or sale; and

20 3. Discharge into a stormwater discharge facility
21 exempted or permitted by the department under this chapter
22 which has sufficient capacity and treatment capability as
23 specified in this chapter and is owned, maintained, or
24 operated by a city, county, special district with drainage
25 responsibility, or water management district; however, this
26 exemption does not authorize discharge to a facility without
27 the facility owner's prior written consent.

28 (r) The removal of aquatic plants, the removal of
29 tussocks, the associated replanting of indigenous aquatic
30 plants, or the associated removal from lakes of organic
31 material when such planting or removal is performed and

1 authorized by permit or exemption granted under s. 369.20 or
2 s. 369.25, if:

3 1. Organic material that exists on the surface of
4 natural mineral soil shall be allowed to be removed to a depth
5 of 3 feet or to the natural mineral soils, whichever is less.

6 2. All organic material removal pursuant to this
7 subsection shall be deposited in an upland site in a manner
8 that will prevent the reintroduction of the material into
9 waters in the state except when spoil material is permitted to
10 be used to create wildlife islands in freshwater bodies of the
11 state when a governmental entity is permitted pursuant to this
12 section to create such islands as a part of a restoration or
13 enhancement project.

14 3. All activities are performed in a manner consistent
15 with state water quality standards.

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17 The department may not adopt implementing rules for this
18 paragraph, notwithstanding any other provision of law.

19 (s) The construction, installation, operation, or
20 maintenance of floating vessel platforms or floating boat
21 lifts, provided that such structures:

22 1. Float at all times in the water for the sole
23 purpose of supporting a vessel so that the vessel is out of
24 the water when not in use;

25 2. Are wholly contained within a boat slip previously
26 permitted under ss. 403.91-403.929, 1984 Supplement to the
27 Florida Statutes 1983, as amended, or part IV of chapter 373,
28 or, when associated with a dock that is exempt under this
29 subsection or a permitted dock with no defined boat slip, do
30 not exceed a combined total of 500 square feet, or 200 square
31 feet in an Outstanding Florida Water;

1 3. Are not used for any commercial purpose or for
2 mooring vessels that remain in the water when not in use, and
3 do not substantially impede the flow of water, create a
4 navigational hazard, or unreasonably infringe upon the
5 riparian rights of adjacent property owners, as defined in s.
6 253.141;

7 4. Are constructed and used so as to minimize adverse
8 impacts to submerged lands, wetlands, shellfish areas, aquatic
9 plant and animal species, and other biological communities,
10 including locating such structures in areas where no
11 seagrasses exist if such areas are present adjacent to the
12 dock; and

13 5. Are not constructed in areas specifically
14 prohibited for boat mooring under conditions of a permit
15 issued in accordance with ss. 403.91-403.929, 1984 Supplement
16 to the Florida Statutes 1983, as amended, or part IV of
17 chapter 373, or other form of authorization issued by a local
18 government.

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20 Structures that qualify for this exemption are relieved from
21 any requirement to obtain permission to use or occupy lands
22 owned by the Board of Trustees of the Internal Improvement
23 Trust Fund and shall not be subject to any more stringent
24 regulation by any local government. The exemption provided in
25 this paragraph shall be in addition to the exemption provided
26 in paragraph (b). By January 1, 2003, the department shall
27 adopt a general permit by rule for the construction,
28 installation, operation, or maintenance of those floating
29 vessel platforms or floating boat lifts that do not qualify
30 for the exemption provided in this paragraph but do not cause
31 significant adverse impacts to occur individually or

1 cumulatively. The issuance of such general permit shall also
2 constitute permission to use or occupy lands owned by the
3 Board of Trustees of the Internal Improvement Trust Fund. Upon
4 the adoption of the rule creating such general permit, no
5 local government shall impose a more stringent regulation on
6 floating vessel platforms or floating boat lifts covered by
7 such general permit.

8 (3) The provisions of subsection (2) are superseded by
9 general permits established pursuant to ss. 373.118 and
10 403.814 which include the same activities. Until such time as
11 general permits are established, or should general permits be
12 suspended or repealed, the exemptions under subsection (2)
13 shall remain or shall be reestablished in full force and
14 effect.

15 Section 2. This act shall take effect upon becoming a
16 law.

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19 HOUSE SUMMARY

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21 Provides an exemption from permitting requirements for
22 the construction, installation, operation, or maintenance
23 of floating vessel platforms or floating boat lifts of
24 limited size that are not used for commercial purposes,
25 provided certain location and construction requirements
26 are met. Authorizes the Department of Environmental
27 Protection to adopt by rule a general permit for floating
28 vessel platforms or floating boat lifts that do not
29 qualify for the exemption but do not cause significant
30 adverse impacts. Provides that such general permit
31 constitutes permission to use certain state lands.
Restricts local government regulation of floating vessel
platforms or floating boat lifts covered by such general
permits.