

1 A bill to be entitled
 2 An act relating to the line of ordinary high water
 3 dividing sovereign and riparian ownership in certain
 4 navigable freshwater bodies; creating s. 253.024, F.S.;
 5 defining the term "ordinary high-water line" for purposes
 6 of ch. 253, F.S., relating to state lands; amending ss.
 7 197.502, 258.39, 258.399, 380.0555, and 403.813, F.S.,
 8 relating to property descriptions in tax deeds, boundaries
 9 of aquatic preserves, and the Apalachicola Bay Area;
 10 providing a definition; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 253.024, Florida Statutes, is created
 15 to read:

16 253.024 Ordinary high-water line.--

17 (1) This section applies when construing the term
 18 "ordinary high-water line" as it is used in this chapter. The
 19 term "ordinary high-water line" includes the terms "ordinary
 20 high-water mark," "line of ordinary high water," and "ordinary
 21 high watermark", and the term "freshet" means a flood or
 22 overflowing of a river, by means of rains or melted snow, or an
 23 inundation.

24 (2) The ordinary high-water line is a water mark that is
 25 coordinate with the limit of the bed of a freshwater body; and
 26 that only is to be considered the bed that the water occupies
 27 sufficiently long and continuously to wrest it from vegetation
 28 and destroy its value for agricultural purposes. Any necessary

29 determination of the location of the ordinary high-water mark
 30 must be made by examining the bed and the banks of the
 31 freshwater body, and ascertaining where the presence and action
 32 of the water are so common and usual, and so long continued in
 33 all ordinary years, as to mark upon the soil of the bed a
 34 character distinct from that of the banks, in respect to
 35 vegetation, as well as respects the nature of the soil itself.
 36 Ordinarily the slope of the bank and the character of the soil
 37 of the bank soil are such that the water impresses a distinct
 38 character on the soil as well as on the vegetation; in some
 39 places, however, where the banks are low and flat, the water
 40 does not impress on the soil any well-defined line of
 41 demarcation between the bed and the banks. In such cases, the
 42 effect of the water upon vegetation must be the principal test
 43 in determining the location of ordinary high-water mark. Such
 44 location is the point up to which the presence and action of the
 45 water is so continuous as to destroy the value of the land for
 46 agricultural purposes by preventing the growth of vegetation
 47 that constitutes an ordinary agricultural crop. The ordinary
 48 high-water mark on a freshwater river is not the highest point
 49 to which the water rises in times of freshets, but is the line
 50 that the river impresses upon the soil by covering it for
 51 sufficient periods to deprive it of vegetation and to destroy
 52 its value for agriculture.

53 Section 2. Paragraph (h) of subsection (4) of section
 54 197.502, Florida Statutes, is amended to read:

55 197.502 Application for obtaining tax deed by holder of
 56 tax sale certificate; fees.--

57 (4) The tax collector shall deliver to the clerk of the
 58 circuit court a statement that payment has been made for all
 59 outstanding certificates or, if the certificate is held by the
 60 county, that all appropriate fees have been deposited, and
 61 stating that the following persons are to be notified prior to
 62 the sale of the property:

63 (h) Any legal titleholder of record of property that is
 64 contiguous to the property described in the tax certificate,
 65 when the property described is either submerged land or common
 66 elements of a subdivision, if the address of the titleholder of
 67 contiguous property appears on the record of conveyance of the
 68 land to that legal titleholder. However, if the legal
 69 titleholder of property contiguous to the property described in
 70 the tax certificate is the same as the person to whom the
 71 property described in the tax certificate was assessed on the
 72 tax roll for the year in which the property was last assessed,
 73 the notice may be mailed only to the address of the legal
 74 titleholder as it appears on the latest assessment roll. As used
 75 in this chapter, the term "contiguous" means touching, meeting,
 76 or joining at the surface or border, other than at a corner or a
 77 single point, and not separated by submerged lands. Submerged
 78 lands lying below the ordinary high-water line, as defined in s.
 79 253.024, ~~mark~~ which are sovereignty lands are not part of the
 80 upland contiguous property for purposes of notification.

81
 82 The statement must be signed by the tax collector, with the tax
 83 collector's seal affixed. The tax collector may purchase a
 84 reasonable bond for errors and omissions of his or her office in

85 making such statement. The search of the official records must
86 be made by a direct and inverse search. "Direct" means the index
87 in straight and continuous alphabetic order by grantor, and
88 "inverse" means the index in straight and continuous alphabetic
89 order by grantee.

90 Section 3. Subsections (6) and (30) of section 258.39,
91 Florida Statutes, is amended to read:

92 258.39 Boundaries of preserves.--The submerged lands
93 included within the boundaries of Nassau, Duval, St. Johns,
94 Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte,
95 Pinellas, Martin, Palm Beach, Dade, Monroe, Collier, Lee,
96 Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa,
97 Hernando, and Escambia Counties, as hereinafter described, with
98 the exception of privately held submerged lands lying landward
99 of established bulkheads and of privately held submerged lands
100 within Monroe County where the establishment of bulkhead lines
101 is not required, are hereby declared to be aquatic preserves.
102 Such aquatic preserve areas include:

103 (6) Banana River Aquatic Preserve, as described in the
104 Official Records of Brevard County in Book 1143, pages 195-198,
105 and the sovereignty submerged lands lying within the following
106 described boundaries: BEGIN at the intersection of the westerly
107 ordinary high-water ~~high-water~~ line of Newfound Harbor with the
108 North line of Section 12, Township 25 South, Range 36 East,
109 Brevard County: Thence proceed northeasterly crossing Newfound
110 Harbor to the intersection of the South line of Section 31,
111 Township 24 South, Range 37 East, with the easterly ordinary
112 high-water ~~high-water~~ line of said Newfound Harbor; thence

113 proceed northerly along the easterly ordinary high-water ~~high~~
 114 ~~water~~ line of Newfound Harbor to its intersection with the
 115 easterly ordinary high-water ~~high-water~~ line of Sykes Creek;
 116 thence proceed northerly along the easterly ordinary high-water
 117 ~~high-water~~ line of said creek to its intersection with the
 118 southerly right-of-way of Hall Road; thence proceed westerly
 119 along said right-of-way to the westerly ordinary high-water ~~high~~
 120 ~~water~~ line of Sykes Creek; thence southerly along said ordinary
 121 high-water ~~high-water~~ line to its intersection with the ordinary
 122 high-water ~~high-water~~ line of Newfound Harbor; thence proceed
 123 southerly along the westerly ordinary high-water ~~high-water~~ line
 124 of Newfound Harbor to the POINT OF BEGINNING. As used in this
 125 subsection, the term "ordinary high-water line" has the same
 126 meaning as in s. 253.024.

127 (30) Wekiva River Aquatic Preserve, the boundaries of
 128 which are generally: All the state-owned sovereignty lands
 129 lying waterward of the ordinary high-water line ~~mark~~ of the
 130 Wekiva River and the Little Wekiva River and their tributaries
 131 lying and being in Lake, Seminole, and Orange counties and more
 132 particularly described as follows:

133 (a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and
 134 30, Township 20 South, Range 29 East. These sections are also
 135 depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute
 136 series-topographic) 1959 (70PR); and

137 (b) In Sections 3, 4, 8, 9, and 10, Township 20 South,
 138 Range 29 East and in Sections 21, 28, and 33, Township 19 South,
 139 Range 29 East lying north of the right-of-way for the Atlantic
 140 Coast Line Railroad and that part of Section 33, Township 19

141 South, Range 29 East lying between the Lake and Orange County
 142 lines and the right-of-way of the Atlantic Coast Line Railroad.
 143 These sections are also depicted on the Sanford SW Quadrangle
 144 (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and
 145 (c) All state-owned sovereignty lands, public lands, and
 146 lands whether public or private below the ordinary high-water
 147 line ~~mark~~ of the Wekiva River and the Little Wekiva and their
 148 tributaries within the Peter Miranda Grant in Lake County lying
 149 below the 10 foot m.s.l. contour line nearest the meander line
 150 of the Wekiva River and all state-owned sovereignty lands,
 151 public lands, and lands whether public or private below the
 152 ordinary high-water line ~~mark~~ of the Wekiva River and the Little
 153 Wekiva and their tributaries within the Moses E. Levy Grant in
 154 Lake County below the 10 foot m.s.l. contour line nearest the
 155 meander lines of the Wekiva River and Black Water Creek as
 156 depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR),
 157 SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES
 158 (U.S.G.S. 7.5 minute topographic); and
 159 (d) All state-owned sovereignty lands, public lands, and
 160 lands whether public or private below the ordinary high-water
 161 line ~~mark~~ of the Wekiva River and the Little Wekiva River and
 162 their tributaries lying below the 10 foot m.s.l. contour line
 163 nearest the meander line of the Wekiva and St. John's Rivers as
 164 shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and
 165 SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute
 166 topographic) within the following described property: Beginning
 167 at a point on the south boundary of the Moses E. Levy Grant,
 168 Township 19 South, Range 29 East, at its intersection with the

169 meander line of the Wekiva River; thence south 60 1/2 degrees
 170 east along said boundary line 4,915.68 feet; thence north 29 1/2
 171 degrees east 15,516.5 feet to the meander line of the St. John's
 172 River; thence northerly along the meander line of the St. John's
 173 River to the mouth of the Wekiva River; thence southerly along
 174 the meander line of the Wekiva River to the beginning; and

175 (e) All state-owned sovereignty lands, public lands, and
 176 lands whether public or private below the ordinary high-water
 177 line ~~mark~~ of the Wekiva River and the Little Wekiva River and
 178 their tributaries within the Peter Miranda Grant lying east of
 179 the Wekiva River, less the following:

180 1. State Road 46 and all land lying south of said State
 181 Road No. 46.

182 2. Beginning 15.56 chains West of the Southeast corner of
 183 the SW 1/4 of the NE 1/4 of Section 21, Township 19 South, Range
 184 29 East, run east 600 feet; thence north 960 feet; thence west
 185 340 feet to the Wekiva River; thence southwesterly along said
 186 Wekiva River to point of beginning.

187 3. That part of the east 1/4 of the SW 1/4 of Section 22,
 188 Township 19 South, Range 29 East, lying within the Peter Miranda
 189 Grant east of the Wekiva River.

190 (f) All the sovereignty submerged lands lying within the
 191 following described boundaries: Begin at the intersection of
 192 State Road 44 and the westerly ordinary high-water ~~high-water~~
 193 line of the St. Johns River, Section 22, Township 17 South,
 194 Range 29 East, Lake County: Thence proceed southerly along the
 195 westerly ordinary high-water ~~high-water~~ line of said river and
 196 its tributaries to the intersection of the northerly right-of-

197 way of State Road 400; thence proceed northeasterly along said
 198 right-of-way to the easterly ordinary high-water ~~high-water~~ line
 199 of the St. Johns River; thence proceed northerly along said
 200 ordinary high-water ~~high-water~~ line of the St. Johns River and
 201 its tributaries to its intersection with the easterly ordinary
 202 high-water ~~high-water~~ line of Lake Beresford; thence proceed
 203 northerly along the ordinary high-water ~~high-water~~ line of said
 204 lake to its intersection with the westerly line of Section 24,
 205 Township 17 South, Range 29 East; thence proceed northerly to
 206 the southerly right-of-way of West New York Avenue; thence
 207 proceed westerly along the southerly right-of-way of said avenue
 208 to its intersection with the southerly right-of-way line of
 209 State Road 44; thence proceed southwesterly along said right-of-
 210 way to the point of beginning.

211
 212 As used in this subsection, the term "ordinary high-water line"
 213 has the same meaning as in s. 253.024.

214 Section 4. Section 258.399, Florida Statutes, is amended
 215 to read:

216 258.399 Oklawaha River Aquatic Preserve.--The following
 217 described area in Marion County is designated by the Legislature
 218 for inclusion into the aquatic preserve system under the Florida
 219 Aquatic Preserve Act of 1975. Such area, to be known as the
 220 Oklawaha River Aquatic Preserve, shall be included in the
 221 aquatic preserve system and shall include the following
 222 described property. The Oklawaha River Aquatic Preserve shall
 223 consist of those state-owned sovereignty submerged lands lying
 224 below the ordinary high-water ~~high-water~~ line of said land,

225 located in Marion County. The preserve is more specifically
 226 described as: Begin at the intersection of the southerly right-
 227 of-way of county road 316 and the westerly ordinary high-water
 228 ~~high-water~~ line of the Oklawaha River, located in Section 9,
 229 Township 13 South, Range 24 East. Thence from said point of
 230 beginning proceed southerly along the ordinary high-water ~~high~~
 231 ~~water~~ line of the Oklawaha River and its tributaries to its
 232 intersection with the eastern line of Section 36, Township 15
 233 South, Range 23 East. Thence proceed northerly along said
 234 Section line to its intersection with the easterly ordinary
 235 high-water ~~high-water~~ line of the Oklawaha River. Thence
 236 proceed northerly along said ordinary high-water ~~high-water~~ line
 237 to its intersection with the southerly right-of-way of county
 238 road 316. Thence proceed west along said road to the point of
 239 beginning; including Eaton Creek upstream to the northern line
 240 of Section 3, Township 14 South, Range 24 East, Daisy Creek
 241 upstream to county road 315, Silver River upstream to the
 242 western line of Section 5, Township 15 South, Range 23 East.
 243 Less and except Dead River and Orange Drain. As used in this
 244 section, the term "ordinary high-water line" has the same
 245 meaning as in s. 253.024.

246 Section 5. Paragraph (a) of subsection (10) of section
 247 380.0555, Florida Statutes, is amended to read:

248 380.0555 Apalachicola Bay Area; protection and designation
 249 as area of critical state concern.--

250 (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

251 (a) As used in this subsection:

252 1. "Alternative onsite system" means any approved onsite

253 disposal system used in lieu of a standard subsurface system.

254 2. "Critical shoreline zone" means all land within a
 255 distance of 150 feet landward of the mean high-water line in
 256 tidal areas, the ordinary high-water line, as defined in s.
 257 253.024, in nontidal areas, or the inland wetland areas existing
 258 along the streams, lakes, rivers, bays, and sounds within the
 259 Apalachicola Bay Area.

260 3. "Pollution-sensitive segment of the critical shoreline"
 261 means an area which, due to its proximity to highly sensitive
 262 resources, including, but not limited to, productive shellfish
 263 beds and nursery areas, requires special regulatory attention.

264 4. "Low-income family" means a group of persons residing
 265 together whose combined income does not exceed 200 percent of
 266 the 1985 Poverty Income Guidelines for all states and the
 267 District of Columbia, promulgated by the United States
 268 Department of Health and Human Services, as published in Volume
 269 50, No. 46 of the Federal Register, pages 9517-18. Income shall
 270 be as defined in said guidelines.

271 Section 6. Paragraph (u) of subsection (2) of section
 272 403.813, Florida Statutes, is amended to read:

273 403.813 Permits issued at district centers; exceptions.--

274 (2) A permit is not required under this chapter, chapter
 275 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 276 chapter 25270, 1949, Laws of Florida, for activities associated
 277 with the following types of projects; however, except as
 278 otherwise provided in this subsection, nothing in this
 279 subsection relieves an applicant from any requirement to obtain
 280 permission to use or occupy lands owned by the Board of Trustees

281 of the Internal Improvement Trust Fund or any water management
 282 district in its governmental or proprietary capacity or from
 283 complying with applicable local pollution control programs
 284 authorized under this chapter or other requirements of county
 285 and municipal governments:

286 (u) Notwithstanding any provision to the contrary in this
 287 subsection, a permit or other authorization under chapter 253,
 288 chapter 369, chapter 373, or this chapter is not required for an
 289 individual residential property owner for the removal of organic
 290 detrital material from freshwater rivers or lakes that have a
 291 natural sand or rocky substrate and that are not Aquatic
 292 Preserves or for the associated removal and replanting of
 293 aquatic vegetation for the purpose of environmental enhancement,
 294 providing that:

295 1. No activities under this exemption are conducted in
 296 wetland areas, as defined by s. 373.019(22), which are supported
 297 by a natural soil as shown in applicable United States
 298 Department of Agriculture county soil surveys.

299 2. No filling or peat mining is allowed.

300 3. No removal of native wetland trees, including, but not
 301 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

302 4. When removing organic detrital material, no portion of
 303 the underlying natural mineral substrate or rocky substrate is
 304 removed.

305 5. Organic detrital material and plant material removed is
 306 deposited in an upland site in a manner that will not cause
 307 water quality violations.

308 6. All activities are conducted in such a manner, and with

309 appropriate turbidity controls, so as to prevent any water
310 quality violations outside the immediate work area.

311 7. Replanting with a variety of aquatic plants native to
312 the state shall occur in a minimum of 25 percent of the
313 preexisting vegetated areas where organic detrital material is
314 removed, except for areas where the material is removed to bare
315 rocky substrate; however, an area may be maintained clear of
316 vegetation as an access corridor. The access corridor width may
317 not exceed 50 percent of the property owner's frontage or 50
318 feet, whichever is less, and may be a sufficient length
319 waterward to create a corridor to allow access for a boat or
320 swimmer to reach open water. Replanting must be at a minimum
321 density of 2 feet on center and be completed within 90 days
322 after removal of existing aquatic vegetation, except that under
323 dewatered conditions replanting must be completed within 90 days
324 after reflooding. The area to be replanted must extend waterward
325 from the ordinary high-water ~~high-water~~ line, as defined in s.
326 253.024, to a point where normal water depth would be 3 feet or
327 the preexisting vegetation line, whichever is less. Individuals
328 are required to make a reasonable effort to maintain planting
329 density for a period of 6 months after replanting is complete,
330 and the plants, including naturally recruited native aquatic
331 plants, must be allowed to expand and fill in the revegetation
332 area. Native aquatic plants to be used for revegetation must be
333 salvaged from the enhancement project site or obtained from an
334 aquatic plant nursery regulated by the Department of Agriculture
335 and Consumer Services. Plants that are not native to the state
336 may not be used for replanting.

337 8. No activity occurs any farther than 100 feet waterward
338 of the ordinary high-water ~~high-water~~ line, as defined in s.
339 253.024, and all activities must be designed and conducted in a
340 manner that will not unreasonably restrict or infringe upon the
341 riparian rights of adjacent upland riparian owners.

342 9. The person seeking this exemption notifies the
343 applicable department district office in writing at least 30
344 days before commencing work and allows the department to conduct
345 a preconstruction site inspection. Notice must include an
346 organic-detrital-material removal and disposal plan and, if
347 applicable, a vegetation-removal and revegetation plan.

348 10. The department is provided written certification of
349 compliance with the terms and conditions of this paragraph
350 within 30 days after completion of any activity occurring under
351 this exemption.

352 Section 7. This act shall take effect July 1, 2005.