

1 Any necessary determination of the location of the ordinary
2 high-water mark must be made by examining the bed and the
3 banks of the freshwater body, and ascertaining where the
4 presence and action of the water are so common and usual, and
5 so long continued in all ordinary years, as to mark upon the
6 soil of the bed a character distinct from that of the banks,
7 in respect to vegetation, as well as respects the nature of
8 the soil itself. Ordinarily the slope of the bank and the
9 character of the soil of the bank soil are such that the water
10 impresses a distinct character on the soil as well as on the
11 vegetation; in some places, however, where the banks are low
12 and flat, the water does not impress on the soil any
13 well-defined line of demarcation between the bed and the
14 banks. In such cases, the effect of the water upon vegetation
15 must be the principal test in determining the location of
16 ordinary high-water mark. Such location is the point up to
17 which the presence and action of the water is so continuous as
18 to destroy the value of the land for agricultural purposes by
19 preventing the growth of vegetation that constitutes an
20 ordinary agricultural crop. The ordinary high-water mark on a
21 freshwater river is not the highest point to which the water
22 rises in times of freshets, but is the line that the river
23 impresses upon the soil by covering it for sufficient periods
24 to deprive it of vegetation and to destroy its value for
25 agriculture.

26 Section 2. Paragraph (h) of subsection (4) of section
27 197.502, Florida Statutes, is amended to read:

28 197.502 Application for obtaining tax deed by holder
29 of tax sale certificate; fees.--

30 (4) The tax collector shall deliver to the clerk of
31 the circuit court a statement that payment has been made for

1 | all outstanding certificates or, if the certificate is held by
2 | the county, that all appropriate fees have been deposited, and
3 | stating that the following persons are to be notified prior to
4 | the sale of the property:

5 | (h) Any legal titleholder of record of property that
6 | is contiguous to the property described in the tax
7 | certificate, when the property described is either submerged
8 | land or common elements of a subdivision, if the address of
9 | the titleholder of contiguous property appears on the record
10 | of conveyance of the land to that legal titleholder. However,
11 | if the legal titleholder of property contiguous to the
12 | property described in the tax certificate is the same as the
13 | person to whom the property described in the tax certificate
14 | was assessed on the tax roll for the year in which the
15 | property was last assessed, the notice may be mailed only to
16 | the address of the legal titleholder as it appears on the
17 | latest assessment roll. As used in this chapter, the term
18 | "contiguous" means touching, meeting, or joining at the
19 | surface or border, other than at a corner or a single point,
20 | and not separated by submerged lands. Submerged lands lying
21 | below the ordinary high-water line, as defined in s. 253.024,
22 | ~~mark~~ which are sovereignty lands are not part of the upland
23 | contiguous property for purposes of notification.

24 |
25 | The statement must be signed by the tax collector, with the
26 | tax collector's seal affixed. The tax collector may purchase a
27 | reasonable bond for errors and omissions of his or her office
28 | in making such statement. The search of the official records
29 | must be made by a direct and inverse search. "Direct" means
30 | the index in straight and continuous alphabetic order by
31 |

1 grantor, and "inverse" means the index in straight and
2 continuous alphabetic order by grantee.

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

5 258.39 Boundaries of preserves.--The submerged lands
6 included within the boundaries of Nassau, Duval, St. Johns,
7 Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte,
8 Pinellas, Martin, Palm Beach, Dade, Monroe, Collier, Lee,
9 Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa,
10 Hernando, and Escambia Counties, as hereinafter described,
11 with the exception of privately held submerged lands lying
12 landward of established bulkheads and of privately held
13 submerged lands within Monroe County where the establishment
14 of bulkhead lines is not required, are hereby declared to be
15 aquatic preserves. Such aquatic preserve areas include:

16 (6) Banana River Aquatic Preserve, as described in the
17 Official Records of Brevard County in Book 1143, pages
18 195-198, and the sovereignty submerged lands lying within the
19 following described boundaries: BEGIN at the intersection of
20 the westerly ordinary high-water ~~high-water~~ line of Newfound
21 Harbor with the North line of Section 12, Township 25 South,
22 Range 36 East, Brevard County: Thence proceed northeasterly
23 crossing Newfound Harbor to the intersection of the South line
24 of Section 31, Township 24 South, Range 37 East, with the
25 easterly ordinary high-water ~~high-water~~ line of said Newfound
26 Harbor; thence proceed northerly along the easterly ordinary
27 high-water ~~high-water~~ line of Newfound Harbor to its
28 intersection with the easterly ordinary high-water ~~high-water~~
29 line of Sykes Creek; thence proceed northerly along the
30 easterly ordinary high-water ~~high-water~~ line of said creek to
31 its intersection with the southerly right-of-way of Hall Road;

1 | thence proceed westerly along said right-of-way to the
2 | westerly ordinary high-water ~~high-water~~ line of Sykes Creek;
3 | thence southerly along said ordinary high-water ~~high-water~~
4 | line to its intersection with the ordinary high-water ~~high~~
5 | ~~water~~ line of Newfound Harbor; thence proceed southerly along
6 | the westerly ordinary high-water ~~high-water~~ line of Newfound
7 | Harbor to the POINT OF BEGINNING. As used in this subsection,
8 | the term "ordinary high-water line" has the same meaning as in
9 | s. 253.024.

10 | (30) Wekiva River Aquatic Preserve, the boundaries of
11 | which are generally: All the state-owned sovereignty lands
12 | lying waterward of the ordinary high-water line ~~mark~~ of the
13 | Wekiva River and the Little Wekiva River and their tributaries
14 | lying and being in Lake, Seminole, and Orange counties and
15 | more particularly described as follows:

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

20 | (b) In Sections 3, 4, 8, 9, and 10, Township 20 South,
21 | Range 29 East and in Sections 21, 28, and 33, Township 19
22 | South, Range 29 East lying north of the right-of-way for the
23 | Atlantic Coast Line Railroad and that part of Section 33,
24 | Township 19 South, Range 29 East lying between the Lake and
25 | Orange County lines and the right-of-way of the Atlantic Coast
26 | Line Railroad. These sections are also depicted on the
27 | Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic)
28 | 1965 (70-1); and

29 | (c) All state-owned sovereignty lands, public lands,
30 | and lands whether public or private below the ordinary
31 | high-water line ~~mark~~ of the Wekiva River and the Little Wekiva

1 and their tributaries within the Peter Miranda Grant in Lake
2 County lying below the 10 foot m.s.l. contour line nearest the
3 meander line of the Wekiva River and all state-owned
4 sovereignty lands, public lands, and lands whether public or
5 private below the ordinary high-water line ~~mark~~ of the Wekiva
6 River and the Little Wekiva and their tributaries within the
7 Moses E. Levy Grant in Lake County below the 10 foot m.s.l.
8 contour line nearest the meander lines of the Wekiva River and
9 Black Water Creek as depicted on the PINE LAKES 1962 (70-1),
10 ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W.
11 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

12 (d) All state-owned sovereignty lands, public lands,
13 and lands whether public or private below the ordinary
14 high-water line ~~mark~~ of the Wekiva River and the Little Wekiva
15 River and their tributaries lying below the 10 foot m.s.l.
16 contour line nearest the meander line of the Wekiva and St.
17 John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD
18 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES
19 (U.S.G.S. 7.5 minute topographic) within the following
20 described property: Beginning at a point on the south
21 boundary of the Moses E. Levy Grant, Township 19 South, Range
22 29 East, at its intersection with the meander line of the
23 Wekiva River; thence south 60 1/2 degrees east along said
24 boundary line 4,915.68 feet; thence north 29 1/2 degrees east
25 15,516.5 feet to the meander line of the St. John's River;
26 thence northerly along the meander line of the St. John's
27 River to the mouth of the Wekiva River; thence southerly along
28 the meander line of the Wekiva River to the beginning; and

29 (e) All state-owned sovereignty lands, public lands,
30 and lands whether public or private below the ordinary
31 high-water line ~~mark~~ of the Wekiva River and the Little Wekiva

1 River and their tributaries within the Peter Miranda Grant
2 lying east of the Wekiva River, less the following:
3 1. State Road 46 and all land lying south of said
4 State Road No. 46.
5 2. Beginning 15.56 chains West of the Southeast corner
6 of the SW 1/4 of the NE 1/4 of Section 21, Township 19
7 South, Range 29 East, run east 600 feet; thence north 960
8 feet; thence west 340 feet to the Wekiva River; thence
9 southwesterly along said Wekiva River to point of beginning.
10 3. That part of the east 1/4 of the SW 1/4 of
11 Section 22, Township 19 South, Range 29 East, lying within the
12 Peter Miranda Grant east of the Wekiva River.
13 (f) All the sovereignty submerged lands lying within
14 the following described boundaries: Begin at the intersection
15 of State Road 44 and the westerly ordinary high-water ~~high~~
16 ~~water~~ line of the St. Johns River, Section 22, Township 17
17 South, Range 29 East, Lake County: Thence proceed southerly
18 along the westerly ordinary high-water ~~high-water~~ line of said
19 river and its tributaries to the intersection of the northerly
20 right-of-way of State Road 400; thence proceed northeasterly
21 along said right-of-way to the easterly ordinary high-water
22 ~~high-water~~ line of the St. Johns River; thence proceed
23 northerly along said ordinary high-water ~~high-water~~ line of
24 the St. Johns River and its tributaries to its intersection
25 with the easterly ordinary high-water ~~high-water~~ line of Lake
26 Beresford; thence proceed northerly along the ordinary
27 high-water ~~high-water~~ line of said lake to its intersection
28 with the westerly line of Section 24, Township 17 South, Range
29 29 East; thence proceed northerly to the southerly
30 right-of-way of West New York Avenue; thence proceed westerly
31 along the southerly right-of-way of said avenue to its

1 intersection with the southerly right-of-way line of State
2 Road 44; thence proceed southwesterly along said right-of-way
3 to the point of beginning.

4
5 As used in this subsection, the term "ordinary high-water
6 line" has the same meaning as in s. 253.024.

7 Section 4. Section 258.399, Florida Statutes, is
8 amended to read:

9 258.399 Oklawaha River Aquatic Preserve.--The
10 following described area in Marion County is designated by the
11 Legislature for inclusion into the aquatic preserve system
12 under the Florida Aquatic Preserve Act of 1975. Such area, to
13 be known as the Oklawaha River Aquatic Preserve, shall be
14 included in the aquatic preserve system and shall include the
15 following described property. The Oklawaha River Aquatic
16 Preserve shall consist of those state-owned sovereignty
17 submerged lands lying below the ordinary high-water ~~high-water~~
18 line of said land, located in Marion County. The preserve is
19 more specifically described as: Begin at the intersection of
20 the southerly right-of-way of county road 316 and the westerly
21 ordinary high-water ~~high-water~~ line of the Oklawaha River,
22 located in Section 9, Township 13 South, Range 24 East.
23 Thence from said point of beginning proceed southerly along
24 the ordinary high-water ~~high-water~~ line of the Oklawaha River
25 and its tributaries to its intersection with the eastern line
26 of Section 36, Township 15 South, Range 23 East. Thence
27 proceed northerly along said Section line to its intersection
28 with the easterly ordinary high-water ~~high-water~~ line of the
29 Oklawaha River. Thence proceed northerly along said ordinary
30 high-water ~~high-water~~ line to its intersection with the
31 southerly right-of-way of county road 316. Thence proceed west

1 along said road to the point of beginning; including Eaton
2 Creek upstream to the northern line of Section 3, Township 14
3 South, Range 24 East, Daisy Creek upstream to county road 315,
4 Silver River upstream to the western line of Section 5,
5 Township 15 South, Range 23 East. Less and except Dead River
6 and Orange Drain. As used in this section, the term "ordinary
7 high-water line" has the same meaning as in s. 253.024.

8 Section 5. Paragraph (a) of subsection (10) of section
9 380.0555, Florida Statutes, is amended to read:

10 380.0555 Apalachicola Bay Area; protection and
11 designation as area of critical state concern.--

12 (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

13 (a) As used in this subsection:

14 1. "Alternative onsite system" means any approved
15 onsite disposal system used in lieu of a standard subsurface
16 system.

17 2. "Critical shoreline zone" means all land within a
18 distance of 150 feet landward of the mean high-water line in
19 tidal areas, the ordinary high-water line, as defined in s.
20 253.024, in nontidal areas, or the inland wetland areas
21 existing along the streams, lakes, rivers, bays, and sounds
22 within the Apalachicola Bay Area.

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

28 4. "Low-income family" means a group of persons
29 residing together whose combined income does not exceed 200
30 percent of the 1985 Poverty Income Guidelines for all states
31 and the District of Columbia, promulgated by the United States

1 Department of Health and Human Services, as published in
2 Volume 50, No. 46 of the Federal Register, pages 9517-18.
3 Income shall be as defined in said guidelines.

4 Section 6. Paragraph (u) of subsection (2) of section
5 403.813, Florida Statutes, is amended to read:

6 403.813 Permits issued at district centers;
7 exceptions.--

8 (2) A permit is not required under this chapter,
9 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214
10 or chapter 25270, 1949, Laws of Florida, for activities
11 associated with the following types of projects; however,
12 except as otherwise provided in this subsection, nothing in
13 this subsection relieves an applicant from any requirement to
14 obtain permission to use or occupy lands owned by the Board of
15 Trustees of the Internal Improvement Trust Fund or any water
16 management district in its governmental or proprietary
17 capacity or from complying with applicable local pollution
18 control programs authorized under this chapter or other
19 requirements of county and municipal governments:

20 (u) Notwithstanding any provision to the contrary in
21 this subsection, a permit or other authorization under chapter
22 253, chapter 369, chapter 373, or this chapter is not required
23 for an individual residential property owner for the removal
24 of organic detrital material from freshwater rivers or lakes
25 that have a natural sand or rocky substrate and that are not
26 Aquatic Preserves or for the associated removal and replanting
27 of aquatic vegetation for the purpose of environmental
28 enhancement, providing that:

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

3 2. No filling or peat mining is allowed.

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

7 4. When removing organic detrital material, no portion
8 of the underlying natural mineral substrate or rocky substrate
9 is removed.

10 5. Organic detrital material and plant material
11 removed is deposited in an upland site in a manner that will
12 not cause water quality violations.

13 6. All activities are conducted in such a manner, and
14 with appropriate turbidity controls, so as to prevent any
15 water quality violations outside the immediate work area.

16 7. Replanting with a variety of aquatic plants native
17 to the state shall occur in a minimum of 25 percent of the
18 preexisting vegetated areas where organic detrital material is
19 removed, except for areas where the material is removed to
20 bare rocky substrate; however, an area may be maintained clear
21 of vegetation as an access corridor. The access corridor width
22 may not exceed 50 percent of the property owner's frontage or
23 50 feet, whichever is less, and may be a sufficient length
24 waterward to create a corridor to allow access for a boat or
25 swimmer to reach open water. Replanting must be at a minimum
26 density of 2 feet on center and be completed within 90 days
27 after removal of existing aquatic vegetation, except that
28 under dewatered conditions replanting must be completed within
29 90 days after reflooding. The area to be replanted must extend
30 waterward from the ordinary high-water ~~high-water~~ line, as
31 defined in s. 253.024, to a point where normal water depth

1 | would be 3 feet or the preexisting vegetation line, whichever
2 | is less. Individuals are required to make a reasonable effort
3 | to maintain planting density for a period of 6 months after
4 | replanting is complete, and the plants, including naturally
5 | recruited native aquatic plants, must be allowed to expand and
6 | fill in the revegetation area. Native aquatic plants to be
7 | used for revegetation must be salvaged from the enhancement
8 | project site or obtained from an aquatic plant nursery
9 | regulated by the Department of Agriculture and Consumer
10 | Services. Plants that are not native to the state may not be
11 | used for replanting.

12 | 8. No activity occurs any farther than 100 feet
13 | waterward of the ordinary high-water ~~high-water~~ line, as
14 | defined in s. 253.024, and all activities must be designed and
15 | conducted in a manner that will not unreasonably restrict or
16 | infringe upon the riparian rights of adjacent upland riparian
17 | owners.

18 | 9. The person seeking this exemption notifies the
19 | applicable department district office in writing at least 30
20 | days before commencing work and allows the department to
21 | conduct a preconstruction site inspection. Notice must include
22 | an organic-detrital-material removal and disposal plan and, if
23 | applicable, a vegetation-removal and revegetation plan.

24 | 10. The department is provided written certification
25 | of compliance with the terms and conditions of this paragraph
26 | within 30 days after completion of any activity occurring
27 | under this exemption.

28 | Section 7. This act shall take effect July 1, 2005.
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SENATE SUMMARY

Defines the line of ordinary high water which divides sovereign and riparian ownership in certain navigable freshwater bodies. Adds conforming definitions.