

By the Committee on Agriculture; and Senator Dean

575-06049-08

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1 A bill to be entitled

2 An act relating to arboriculture; creating ch. 598, F.S.;
3 providing a short title; providing a statement of purpose;
4 providing definitions; providing powers and duties of the
5 Department of Agriculture and Consumer Services;
6 authorizing the department to adopt rules; establishing a
7 fee schedule for licensure as an arborist; providing for
8 the deposit and use of fee proceeds; establishing
9 licensure procedures and requirements to practice
10 arboriculture and provide arboriculture services;
11 providing for the issuance of a license; providing for
12 license renewal; providing for the reactivation of a
13 license under certain conditions; providing for the
14 issuance of a duplicate license under certain
15 circumstances; requiring that the department maintain a
16 roster of licensed arborists; providing an appropriation
17 and authorizing an additional position; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Chapter 598, Florida Statutes, consisting of
23 sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006,
24 598.007, 598.008, 598.009, and 598.011, is created to read:

25 CHAPTER 598

26 ARBORICULTURE

27 598.001 Short title.--This chapter may be cited as the
28 "Florida Arborist Licensing Law."

29 598.002 Purpose.--It is declared to be the public policy of

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30 this state that, in order to safeguard life, health, and property
31 and provide for the mitigation of property insurance, the cleanup
32 of damage from hurricanes, tropical storms, and other severe
33 storm events, and the well-being of the public, any person
34 practicing or offering to practice arboriculture in this state as
35 a licensed arborist must meet the requirements of this chapter.

36 598.003 Definitions.--As used in this chapter:

37 (1) "Arboriculture" or "arboriculture services" means:

38 (a) Any tree service, including, but not limited to,
39 written or oral reports, recommendations, opinions, or
40 consultations done for compensation relating to the improvement
41 of the condition of shade, ornamental, palm, or fruit trees by
42 fertilizing, pruning, trimming, bracing, or other methods of
43 improving, diagnosing, or protecting such trees from tree pests,
44 excluding activities regulated under chapter 482 and the
45 activities of a nursery as defined in s. 581.011(20) and (22);
46 diagnosing or protecting such trees from tree diseases and
47 abiotic agents; or curing or repairing any damage to such trees,
48 including, but not limited to, pruning, removal, preservation,
49 repair, cabling and bracing, lightning protection, root pruning,
50 root excavation, tree assessments, tree maintenance and care,
51 trimming, cutting, sawing, or removal of trees that have been
52 damaged to such an extent as to cause or threaten injury to life
53 or property.

54 (b) A service performed in connection with post-storm
55 cleanup of damage from hurricanes, tropical storms, and other
56 storm events involving substantial work hours. A post-storm
57 cleanup service includes, but is not limited to, storm damage
58 resulting in downed, damaged, or uprooted trees or parts of trees

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59 of substantial size and weight in excess of 50 pounds which
60 threaten the structural integrity of residential or commercial
61 structures, involve any type of power lines, impede traffic on
62 streets, driveways, and other vehicular access roads, require
63 extensive use of compression or chain saws, or involve any
64 related skilled service.

65
66 Landscape architects licensed under part II of chapter 481 are
67 authorized to practice arboriculture. However, as provided in s.
68 598.006(4), only persons licensed under this chapter may hold
69 themselves out as state licensed arborists.

70 (2) "Arborist of record" means a Florida-licensed arborist
71 who is in good standing and employed by or contracting with a
72 firm, corporation, partnership, employer, or person and who
73 supervises employees providing arboriculture services and issues
74 authorization cards to persons performing services under his or
75 her supervision.

76 (3) "Department" means the Department of Agriculture and
77 Consumer Services.

78 (4) "Landscape tree maintenance" means maintenance
79 performed when standing on the ground or on trees less than 4
80 inches in diameter at breast height as defined by the most
81 current edition of the Guide to Plant Appraisal.

82 (5) "Licensed arborist" means a person who has fulfilled
83 the International Society of Arboriculture requirements for
84 arborist certification or for certification as a Board Certified
85 Master Arborist, whose certification is current, and who meets
86 the requirements of s. 598.006.

87 (6) "Person" means a person as defined in s. 1.01(3).

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88 (7) "Practice of arboriculture" means the performance of,
89 or the offer to perform, an arboriculture service, including, but
90 not limited to, a written or oral report, consultation,
91 investigation, evaluation, or planning relating to arboriculture,
92 excluding landscape tree maintenance, as defined in this section,
93 or as otherwise excluded by this chapter. A person engages in the
94 practice of arboriculture if she or he:

95 (a) By verbal claim, sign, advertisement, letterhead, card,
96 or any other means represents herself or himself to be an
97 arborist;

98 (b) Through the use of some title implies that she or he is
99 an arborist licensed under this chapter; or

100 (c) Holds herself or himself out as able to perform or does
101 perform any arboriculture services or work recognized as services
102 or work performed by an arborist.

103 598.004 Powers and duties of the Department of Agriculture
104 and Consumer Services; rulemaking.--The department shall have all
105 powers and duties necessary to administer the provisions of this
106 chapter, including, but not limited to, the authority to adopt
107 rules pursuant to ss. 120.536(1) and 120.54 to implement the
108 following:

109 (1) Organizational and operational guidance regarding the
110 practice of arboriculture, arborists of record, and the
111 requirements of the law regarding licensed arborists.

112 (2) A process for licensure, including, but not limited to,
113 requirements and procedures for licensure, insurance requirements
114 and standards of the International Society of Arboriculture for
115 licensed arborists, authorization cards, annual license renewal,
116 language relating to licensure which may be used by licensed

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117 arborists for public information, duplicate licenses, lost,
118 destroyed, or mutilated licenses, and inactive and reactivated
119 licenses.

120 (3) The setting of fees for licensure and annual renewal
121 and other license fees as provided in s. 598.005.

122 (4) The provision of a roster of licensed arborists.
123 598.005 Fees.--

124 (1) The department shall, by rule, set fees as provided in
125 this section. The amount of such fees may not exceed the cost of
126 the implementing, reviewing, or administrative processing of the
127 particular activity or process. Such fees shall be set according
128 to the following schedule:

129 (a) A nonrefundable licensure application fee not to exceed
130 \$300.

131 (b) An annual renewal fee not to exceed \$300.

132 (c) A fee for reactivation of an inactive license not to
133 exceed \$100.

134 (2) Fees collected pursuant to this chapter shall be
135 deposited into the Incidental Trust Fund of the Division of
136 Forestry of the department and shall be used to defray expenses
137 incurred in the administration of this chapter.

138 598.006 Licensure procedures and requirements; issuance of
139 licenses.--

140 (1) Each applicant for licensure shall:

141 (a) Submit an application for licensure, together with the
142 nonrefundable fee to the department, which has been reviewed by
143 the board of directors of the International Society of
144 Arboriculture, Inc., Florida Chapter, for completeness and
145 compliance with this section;

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146 (b) Furnish proof that she or he is at least 18 years of
147 age;

148 (c) Disclose any act or offense, or investigation of such
149 alleged act or offense, in any jurisdiction, related to the
150 applicant's ability to practice arboriculture;

151 (d) Submit evidence of current certification by the
152 International Society of Arboriculture as a Certified Arborist or
153 as a Board Certified Master Arborist;

154 (e) Provide proof of liability, required workers'
155 compensation, and errors and omissions insurance. However,
156 applicants employed by a statutorily recognized governmental
157 entity are not required to carry errors and omissions insurance
158 or liability insurance if the entity is self-insured. Within 30
159 days after the date on which the person's employment with the
160 governmental entity is terminated, the person shall comply fully
161 with the requirements of this subsection; and

162 (f) Submit a signed statement that the applicant will
163 comply with current industry standards, including, but not
164 limited to, ANSI Z-133-1 and A-300 series and any other related
165 standards of the International Society of Arboriculture and best-
166 management practices adopted by rule by the department.

167 (2) The department may not issue a license to any applicant
168 who has committed an act or offense or who is under investigation
169 pending its outcome in any jurisdiction for an offense related to
170 his or her ability to practice arboriculture. This subsection
171 applies only if the department has knowledge of such act,
172 offense, or investigation.

173 (3) The department shall suspend or revoke the license of
174 any person licensed under this section who fails to maintain

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175 compliance with subsection (1).

176 (4) A person may not hold herself or himself out as a
177 arborist who is licensed in Florida unless such person has been
178 issued a license under this chapter.

179 (5) All final arboriculture papers or documents involving
180 the practice of the profession of arboriculture under the
181 supervision of a Florida-licensed arborist of record which have
182 been prepared or approved for use by a firm, corporation,
183 partnership, or person for delivery to any person for public
184 record within this state shall be dated and bear the signature
185 and seal of the Florida-licensed arborist of record who prepared,
186 supervised, or approved the documents and who was responsible for
187 the supervision of persons performing arboricultural services.

188 598.007 Renewal of licenses; notice of address of primary
189 place of business.--

190 (1) The department shall renew a license upon receipt of
191 satisfactory evidence that the applicant's International Society
192 of Arboriculture certification is current and that the applicant
193 is otherwise in compliance with this chapter and department
194 rules.

195 (2) A licensed arborist must have on file with the
196 department the address of her or his primary place of practice.
197 Within 30 days after changing the address of her or his primary
198 place of practice, the licensed arborist must notify the
199 department of the address of the new primary place of practice.

200 598.008 Inactive licenses; reactivated licenses; suspended
201 or revoked licenses.--A licensed arborist whose license has
202 become inactive, suspended, or revoked shall have her or his
203 license reactivated only upon written request to the department

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204 and approval by the department to reactivate the license.

205 598.009 Lost, destroyed, stolen, or mutilated licenses.--A
206 duplicate license for a licensed arborist may be issued to
207 replace a license that has been lost, destroyed, stolen, or
208 mutilated, subject to rules of the department. Licenses issued
209 under this section shall be marked with the word "DUPLICATE."

210 598.011 Roster of licensed arborists.--The department shall
211 maintain a roster showing the names and places of business of all
212 licensed arborists in this state, based on requests for
213 licensure.

214 Section 2. The sum of \$72,280 is appropriated from the
215 Incidental Trust Fund to the Department of Agriculture and
216 Consumer Services and one position and associated rate and
217 expenses are authorized in order to carry out the provisions of
218 this act.

219 Section 3. This act shall take effect July 1, 2008.