

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Troutman offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Chapter 598, Florida Statutes, consisting of
6 sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006,
7 598.007, 598.008, 598.009, and 598.011, is created to read:

8 CHAPTER 598

9 ARBORICULTURE

10 598.001 Short title.--This chapter may be cited as the
11 "Florida Arborist Licensing Law."

12 598.002 Purpose.--It is declared to be the public policy
13 of the state that, in order to safeguard life, health, and
14 property; the mitigation of property insurance; the cleanup of
15 damage from hurricanes, tropical storms, and other severe storm
16 events; and the public well-being of its citizens, any person

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17 practicing or offering to practice arboriculture in this state
18 as a licensed arborist shall meet the requirements of this
19 chapter.

20 598.003 Definitions.--As used in this chapter:

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

22 (a) Any tree service, including, but not limited to, a
23 written or oral report, a recommendation, an opinion, or a
24 consultation done for compensation relating to the improvement
25 of the condition of shade, ornamental, palm, or fruit trees by
26 fertilizing, pruning, trimming, bracing, or other methods of
27 improving, diagnosing, or protecting such trees from tree pests,
28 excluding activities regulated under chapter 482 and the
29 activities of a nursery as defined in s. 581.011(20) and (22),
30 or diagnosing or protecting such trees from tree diseases and
31 abiotic agents, or curing or repairing any damage to such trees,
32 including, but not limited to, pruning, removal, preservation,
33 repair, cabling and bracing, lightning protection, root pruning,
34 root excavation, tree assessments, tree maintenance and care,
35 trimming, cutting, sawing, or removal of trees that have been
36 damaged to such an extent as to cause or threaten injury to life
37 or property.

38 (b) A service performed in connection with post-storm
39 cleanup of damage from hurricanes, tropical storms, and other
40 storm events that involves substantial work hours. A post-storm
41 cleanup service includes, but is not limited to, storm damage
42 resulting in downed, damaged, or uprooted trees, or parts of
43 trees, of substantial size and weight in excess of 50 pounds
44 that threaten the structural integrity of residential or

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45 commercial structures; involve any type of power lines; impede
46 traffic on streets, driveways, and other vehicular access roads;
47 require extensive use of compression or chain saws; and involve
48 any related skilled service.

49 (c) A landscape architect licensed under part II of
50 chapter 481 is authorized to practice arboriculture; however, as
51 provided in s. 598.006(4), only a person licensed under this
52 chapter may hold herself or himself out as a state-licensed
53 arborist.

54 (d) To prevent injury to life or property after a
55 disaster, state emergency response team members designated under
56 the state comprehensive emergency management plan pursuant to
57 chapter 252 are authorized to provide and conduct charitable
58 arboriculture services and to train volunteers to provide such
59 services; however, as provided in s. 598.006(4), only a person
60 licensed under this chapter may hold herself or himself out as a
61 state-licensed arborist.

62 (2) "Arborist of record" means a Florida-licensed arborist
63 in good standing who is employed by or contracting with a firm,
64 corporation, partnership, employer, or person; who supervises
65 employees providing arboriculture services; and who issues
66 authorization cards to persons performing services under her or
67 his supervision.

68 (3) "Department" means the Department of Agriculture and
69 Consumer Services.

70 (4) "Landscape tree maintenance" means maintenance
71 performed when standing on the ground or when performed on trees

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72 less than 4 inches in diameter at breast height as referenced in
73 the Guide to Plant Appraisal.

74 (5) "Licensed arborist" means a person who has fulfilled
75 the International Society of Arboriculture requirements for
76 arborist certification or for certification as a Board Certified
77 Master Arborist, whose certification is current, and who meets
78 the requirements of s. 598.006.

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

80 (7) "Practice of arboriculture" means the performance of,
81 or offer to perform, an arboriculture service, including, but
82 not limited to, a written or oral report, consultation,
83 investigation, evaluation, or planning, relating to
84 arboriculture, excluding landscape tree maintenance as defined
85 in this section and as otherwise excluded by this chapter. A
86 person shall be construed to be engaged in the practice of
87 arboriculture if she or he:

88 (a) By verbal claim, sign, advertisement, letterhead,
89 card, or any other means represents herself or himself to be an
90 arborist;

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

93 (c) Holds herself or himself out as able to perform or
94 does perform any arboriculture services or work recognized as an
95 arborist.

96 598.004 Powers and duties of the Department of Agriculture
97 and Consumer Services; rulemaking.--The department shall have
98 all powers and duties necessary to implement the provisions of
99 this chapter, including, but not limited to, the authority to

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100 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
101 the following:

102 (1) Organizational and operational guidance regarding the
103 practice of arboriculture, arborists of record, and the
104 requirements of the law regarding licensed arborists.

105 (2) Licensure process, including, but not limited to,
106 requirements and procedures for licensure; insurance
107 requirements and standards of the International Society of
108 Arboriculture for licensed arborists; authorization cards;
109 annual license renewal; language relating to licensure that may
110 be used by licensed arborists for public information; duplicate
111 licenses; lost, destroyed, or mutilated licenses; and inactive
112 and reactivated licenses.

113 (3) Setting of fees for licensure and annual renewal and
114 other license fees as provided in s. 598.005.

115 (4) Provision of a roster of licensed arborists.
116 598.005 Fees.--

117 (1) The department shall by rule set fees as provided in
118 this section. The amount of the fees shall not exceed the cost
119 of the implementing, reviewing, or administrative processing of
120 the particular activity or process. Licensure fees shall not
121 exceed \$300 annually.

122 (2) Fees collected under this chapter shall be deposited
123 into the Incidental Trust Fund of the Division of Forestry of
124 the department and shall be used to defray expenses in the
125 administration of this chapter.

126 598.006 Licensure procedures and requirements; issuance of
127 licenses.--

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- 128 (1) Each applicant for licensure shall:
129 (a) Submit to the department an application for licensure
130 that has been reviewed by the Florida Chapter, Board of
131 Directors, International Society of Arboriculture, Inc., for
132 completeness and compliance with this section, together with the
133 nonrefundable fee;
134 (b) Furnish proof that she or he is at least 18 years of
135 age;
136 (c) Disclose any information related to the provisions of
137 subsection (2);
138 (d) Submit evidence of current certification by the
139 International Society of Arboriculture as a Certified Arborist
140 or as a Board Certified Master Arborist;
141 (e) Provide proof of liability, required workers'
142 compensation, and errors and omissions insurance; however, an
143 applicant employed by a statutorily recognized governmental
144 entity shall not be required to carry errors and omissions
145 insurance or liability insurance if the entity is self-insured.
146 Within 30 days after the termination of the person's employment
147 with the governmental entity, the person shall fully comply with
148 the requirements of this subsection; and
149 (f) Submit a signed statement that the applicant will
150 comply with arboriculture industry standards, including, but not
151 limited to, the national standards for tree operations and
152 safety approved by the American National Standards Institute,
153 the standards of the International Society of Arboriculture, and
154 best management practices adopted by rule by the department.

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155 (2) The department may deny or refuse to renew the license
156 of any applicant or state-licensed arborist upon a determination
157 that the applicant or state-licensed arborist:

158 (a) Has failed to meet the requirements for licensure as
159 provided in this chapter;

160 (b) Has been convicted of a crime involving fraud,
161 dishonest dealing, or any other act of moral turpitude;

162 (c) Has not satisfied a civil fine or penalty arising out
163 of any administrative or enforcement action brought by any
164 governmental agency or private person based upon conduct
165 involving fraud, dishonest dealing, or any violation of this
166 act;

167 (d) Has pending against her or him any criminal,
168 administrative, or enforcement proceedings in any jurisdiction,
169 based upon conduct involving fraud, dishonest dealing, or any
170 other act of moral turpitude; or

171 (e) Has had a judgment entered against her or him in any
172 action brought by the department or the Department of Legal
173 Affairs pursuant to ss. 501.201-501.213 or this chapter.

174 (3) Any person licensed under this section who fails to
175 maintain compliance with subsection (1) shall have her or his
176 license suspended or revoked by the department.

177 (4) A person may not hold herself or himself out as a
178 licensed Florida arborist unless the person has been issued a
179 license pursuant to this chapter.

180 (5) All final arboriculture papers or documents involving
181 the practice of the profession of arboriculture under the
182 supervision of a Florida-licensed arborist of record that have

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183 been prepared or approved for use by a firm, corporation,
184 partnership, or person, for delivery to any person for public
185 record within the state, shall be dated and bear the signature
186 and seal of the Florida-licensed arborist of record who
187 prepared, supervised, or approved the documents and who was
188 responsible for the supervision of persons performing
189 arboricultural services.

190 598.007 Renewal of licenses; notice of address of primary
191 place of business.--

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

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

202 598.008 Inactive licenses; reactivated licenses; suspended
203 or revoked licenses.--A licensed arborist whose license has
204 become inactive, suspended, or revoked shall have her or his
205 license reactivated only upon written request to the department
206 and approval by the department to reactivate the license.

207 598.009 Lost, destroyed, stolen, or mutilated licenses.--A
208 duplicate license for a licensed arborist may be issued to
209 replace a license that has been lost, destroyed, stolen, or

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210 mutilated, subject to rules of the department. Licenses issued
211 under this section shall be marked with the word "DUPLICATE."

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

216 Section 2. There is hereby appropriated to the Department
217 of Agriculture and Consumer Services one position and associated
218 rate and expenses of \$72,280 from the Incidental Trust Fund in
219 order to carry out the provisions of section 1 of this act.

220 Section 3. Subsection (1) of section 604.15, Florida
221 Statutes, is amended to read:

222 604.15 Dealers in agricultural products; definitions.--For
223 the purpose of ss. 604.15-604.34, the following words and terms,
224 when used, shall be construed to mean:

225 (1) "Agricultural products" means the natural products of
226 the farm, nursery, grove, orchard, vineyard, garden, and apiary
227 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
228 livestock; milk and milk products; poultry and poultry products;
229 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*
230 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
231 Persian, Tahiti, Bearss, or Florida Key limes); and any other
232 nonexempt agricultural products produced in the state, except
233 tobacco, sugarcane, tropical foliage, timber and timber
234 byproducts, forest products as defined in s. 591.17, and citrus
235 other than limes.

236 Section 4. This act shall take effect July 1, 2008.

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T I T L E A M E N D M E N T

Remove the entire title and insert:

A bill to be entitled

An act relating to arboriculture; creating ch. 598, F.S.;
providing a short title; providing a purpose statement;
providing definitions; providing exceptions; providing powers
and duties of the Department of Agriculture and Consumer
Services; providing rulemaking authority; establishing a maximum
annual fee for licensure; providing for deposit and use of fee
proceeds; establishing licensure procedures and requirements to
practice arboriculture and provide arboriculture services;
providing for issuance of a license; providing grounds for
denial of a license or refusal to renew a license; providing for
license suspension or revocation; providing for license renewal;
providing for reactivation of a license under certain
conditions; providing for issuance of a duplicate license under
certain circumstances; requiring a roster of licensed arborists;
providing an appropriation; amending s. 604.15, F.S.; revising a
definition to make tropical foliage exempt from regulation under
provisions relating to dealers in agricultural products;
providing an effective date.