

1 A bill to be entitled
 2 An act relating to arboriculture; creating ch. 598, F.S.;
 3 providing a short title; providing a purpose statement;
 4 providing definitions; providing an exception; providing
 5 powers and duties of the Department of Agriculture and
 6 Consumer Services; providing rulemaking authority;
 7 establishing a fee schedule for licensure; providing for
 8 deposit and use of fee proceeds; establishing licensure
 9 procedures and requirements to practice arboriculture and
 10 provide arboriculture services; providing for issuance of
 11 a license; providing for license suspension or revocation;
 12 providing for license renewal; providing for reactivation
 13 of a license under certain conditions; providing for
 14 issuance of a duplicate license under certain
 15 circumstances; requiring a roster of licensed arborists;
 16 providing an appropriation; providing an effective date.

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

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

23 CHAPTER 598

24 ARBORICULTURE

25 598.001 Short title.--This chapter may be cited as the
 26 "Florida Arborist Licensing Law."

27 598.002 Purpose.--It is declared to be the public policy
 28 of the state that, in order to safeguard life, health, and

29 property; the mitigation of property insurance; the cleanup of
 30 damage from hurricanes, tropical storms, and other severe storm
 31 events; and the public well-being of its citizens, any person
 32 practicing or offering to practice arboriculture in this state
 33 as a licensed arborist shall meet the requirements of this
 34 chapter.

35 598.003 Definitions.--As used in this chapter:

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

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

53 (b) A service performed in connection with post-storm
 54 cleanup of damage from hurricanes, tropical storms, and other
 55 storm events that involves substantial work hours. A post-storm
 56 cleanup service includes, but is not limited to, storm damage

57 resulting in downed, damaged, or uprooted trees, or parts of
58 trees, of substantial size and weight in excess of 50 pounds
59 that threaten the structural integrity of residential or
60 commercial structures; involve any type of power lines; impede
61 traffic on streets, driveways, and other vehicular access roads;
62 require extensive use of compression or chain saws; and involve
63 any related skilled service.

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

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

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

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

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

85 the requirements of s. 598.006.

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

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

95 (a) By verbal claim, sign, advertisement, letterhead,
 96 card, 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
 99 is an arborist licensed under this chapter; or

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

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

113 requirements and procedures for licensure; insurance
 114 requirements and standards of the International Society of
 115 Arboriculture for licensed arborists; authorization cards;
 116 annual license renewal; language relating to licensure that may
 117 be used by licensed arborists for public information; duplicate
 118 licenses; lost, destroyed, or mutilated licenses; and inactive
 119 and reactivated licenses.

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

122 (4) 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 the fees shall not exceed the cost
 126 of the implementing, reviewing, or administrative processing of
 127 the particular activity or process. The fees shall be set
 128 according to the following schedule:

129 (a) A nonrefundable licensure application fee not to
 130 exceed \$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 under this chapter shall be deposited
 135 into the Incidental Trust Fund of the Division of Forestry of
 136 the department and shall be used to defray expenses in the
 137 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 to the department an application for licensure
142 that has been reviewed by the Florida Chapter, Board of
143 Directors, International Society of Arboriculture, Inc., for
144 completeness and compliance with this section, together with the
145 nonrefundable fee;

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 act or offense in any jurisdiction related to the applicant's
150 ability to practice arboriculture;

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

154 (e) Provide proof of liability, required workers'
155 compensation, and errors and omissions insurance; however, an
156 applicant employed by a statutorily recognized governmental
157 entity shall not be required to carry errors and omissions
158 insurance or liability insurance if the entity is self-insured.
159 Within 30 days after the termination of the person's employment
160 with the governmental entity, the person shall fully comply with
161 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, if it has knowledge, shall not issue a
168 license to any applicant who has committed an act or offense or

169 who is under investigation pending its outcome in any
 170 jurisdiction for an offense related to her or his ability to
 171 practice arboriculture.

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

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

178 (5) All final arboriculture papers or documents involving
 179 the practice of the profession of arboriculture under the
 180 supervision of a Florida-licensed arborist of record that have
 181 been prepared or approved for use by a firm, corporation,
 182 partnership, or person, for delivery to any person for public
 183 record within the state, shall be dated and bear the signature
 184 and seal of the Florida-licensed arborist of record who
 185 prepared, supervised, or approved the documents and who was
 186 responsible for the supervision of persons performing
 187 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) The 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
 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
 211 shall maintain a roster showing the names and places of business
 212 of all licensed arborists in the state, based on requests for
 213 licensure.

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

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