

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 exceptions; providing
5 powers and duties of the Department of Agriculture and
6 Consumer Services; providing rulemaking authority;
7 establishing a maximum annual fee for licensure; providing
8 for deposit and use of fee proceeds; establishing
9 licensure procedures and requirements to practice
10 arboriculture and provide arboriculture services;
11 providing for issuance of a license; providing grounds for
12 denial of a license or refusal to renew a license;
13 providing for license suspension or revocation; providing
14 for license renewal; providing for reactivation of a
15 license under certain conditions; providing for issuance
16 of a duplicate license under certain circumstances;
17 requiring a roster of licensed arborists; providing an
18 appropriation; amending s. 604.15, F.S.; revising a
19 definition to make tropical foliage exempt from regulation
20 under provisions relating to dealers in agricultural
21 products; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24 Section 1. Chapter 598, Florida Statutes, consisting of
25 sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006,
26 598.007, 598.008, 598.009, and 598.011, is created to read:

27 CHAPTER 598

28 ARBORICULTURE

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29 598.001 Short title.--This chapter may be cited as the
 30 "Florida Arborist Licensing Law."

31 598.002 Purpose.--It is declared to be the public policy
 32 of the state that, in order to safeguard life, health, and
 33 property; the mitigation of property insurance; the cleanup of
 34 damage from hurricanes, tropical storms, and other severe storm
 35 events; and the public well-being of its citizens, any person
 36 practicing or offering to practice arboriculture in this state
 37 as a licensed arborist shall meet the requirements of this
 38 chapter.

39 598.003 Definitions.--As used in this chapter:

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

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

57 (b) A service performed in connection with post-storm
58 cleanup of damage from hurricanes, tropical storms, and other
59 storm events that involves substantial work hours. A post-storm
60 cleanup service includes, but is not limited to, storm damage
61 resulting in downed, damaged, or uprooted trees, or parts of
62 trees, of substantial size and weight in excess of 50 pounds
63 that threaten the structural integrity of residential or
64 commercial structures; involve any type of power lines; impede
65 traffic on streets, driveways, and other vehicular access roads;
66 require extensive use of compression or chain saws; and involve
67 any related skilled service.

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

73 (d) To prevent injury to life or property after a
74 disaster, state emergency response team members designated under
75 the state comprehensive emergency management plan pursuant to
76 chapter 252 are authorized to provide and conduct charitable
77 arboriculture services and to train volunteers to provide such
78 services; however, as provided in s. 598.006(4), only a person
79 licensed under this chapter may hold herself or himself out as a
80 state-licensed arborist.

81 (2) "Arborist of record" means a Florida-licensed arborist
82 in good standing who is employed by or contracting with a firm,
83 corporation, partnership, employer, or person; who supervises
84 employees providing arboriculture services; and who issues

85 authorization cards to persons performing services under her or
 86 his supervision.

87 (3) "Department" means the Department of Agriculture and
 88 Consumer Services.

89 (4) "Landscape tree maintenance" means maintenance
 90 performed when standing on the ground or when performed on trees
 91 less than 4 inches in diameter at breast height as referenced in
 92 the Guide to Plant Appraisal.

93 (5) "Licensed arborist" means a person who has fulfilled
 94 the International Society of Arboriculture requirements for
 95 arborist certification or for certification as a Board Certified
 96 Master Arborist, whose certification is current, and who meets
 97 the requirements of s. 598.006.

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

99 (7) "Practice of arboriculture" means the performance of,
 100 or offer to perform, an arboriculture service, including, but
 101 not limited to, a written or oral report, consultation,
 102 investigation, evaluation, or planning, relating to
 103 arboriculture, excluding landscape tree maintenance as defined
 104 in this section and as otherwise excluded by this chapter. A
 105 person shall be construed to be engaged in the practice of
 106 arboriculture if she or he:

107 (a) By verbal claim, sign, advertisement, letterhead,
 108 card, or any other means represents herself or himself to be an
 109 arborist;

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

112 (c) Holds herself or himself out as able to perform or

113 does perform any arboriculture services or work recognized as an
 114 arborist.

115 598.004 Powers and duties of the Department of Agriculture
 116 and Consumer Services; rulemaking.--The department shall have
 117 all powers and duties necessary to implement the provisions of
 118 this chapter, including, but not limited to, the authority to
 119 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
 120 the following:

121 (1) Organizational and operational guidance regarding the
 122 practice of arboriculture, arborists of record, and the
 123 requirements of the law regarding licensed arborists.

124 (2) Licensure process, including, but not limited to,
 125 requirements and procedures for licensure; insurance
 126 requirements and standards of the International Society of
 127 Arboriculture for licensed arborists; authorization cards;
 128 annual license renewal; language relating to licensure that may
 129 be used by licensed arborists for public information; duplicate
 130 licenses; lost, destroyed, or mutilated licenses; and inactive
 131 and reactivated licenses.

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

134 (4) Provision of a roster of licensed arborists.

135 598.005 Fees.--

136 (1) The department shall by rule set fees as provided in
 137 this section. The amount of the fees shall not exceed the cost
 138 of the implementing, reviewing, or administrative processing of
 139 the particular activity or process. Licensure fees shall not
 140 exceed \$300 annually.

141 (2) Fees collected under this chapter shall be deposited
142 into the Incidental Trust Fund of the Division of Forestry of
143 the department and shall be used to defray expenses in the
144 administration of this chapter.

145 598.006 Licensure procedures and requirements; issuance of
146 licenses.--

147 (1) Each applicant for licensure shall:

148 (a) Submit to the department an application for licensure
149 that has been reviewed by the Florida Chapter, Board of
150 Directors, International Society of Arboriculture, Inc., for
151 completeness and compliance with this section, together with the
152 nonrefundable fee;

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

155 (c) Disclose any information related to the provisions of
156 subsection (2);

157 (d) Submit evidence of current certification by the
158 International Society of Arboriculture as a Certified Arborist
159 or as a Board Certified Master Arborist;

160 (e) Provide proof of liability, required workers'
161 compensation, and errors and omissions insurance; however, an
162 applicant employed by a statutorily recognized governmental
163 entity shall not be required to carry errors and omissions
164 insurance or liability insurance if the entity is self-insured.
165 Within 30 days after the termination of the person's employment
166 with the governmental entity, the person shall fully comply with
167 the requirements of this subsection; and

168 (f) Submit a signed statement that the applicant will

169 comply with arboriculture industry standards, including, but not
170 limited to, the national standards for tree operations and
171 safety approved by the American National Standards Institute,
172 the standards of the International Society of Arboriculture, and
173 best management practices adopted by rule by the department.

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

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

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

181 (c) Has not satisfied a civil fine or penalty arising out
182 of any administrative or enforcement action brought by any
183 governmental agency or private person based upon conduct
184 involving fraud, dishonest dealing, or any violation of this
185 act;

186 (d) Has pending against her or him any criminal,
187 administrative, or enforcement proceedings in any jurisdiction,
188 based upon conduct involving fraud, dishonest dealing, or any
189 other act of moral turpitude; or

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

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

196 (4) A person may not hold herself or himself out as a

197 licensed Florida arborist unless the person has been issued a
 198 license pursuant to this chapter.

199 (5) All final arboriculture papers or documents involving
 200 the practice of the profession of arboriculture under the
 201 supervision of a Florida-licensed arborist of record that have
 202 been prepared or approved for use by a firm, corporation,
 203 partnership, or person, for delivery to any person for public
 204 record within the state, shall be dated and bear the signature
 205 and seal of the Florida-licensed arborist of record who
 206 prepared, supervised, or approved the documents and who was
 207 responsible for the supervision of persons performing
 208 arboricultural services.

209 598.007 Renewal of licenses; notice of address of primary
 210 place of business.--

211 (1) The department shall renew a license upon receipt of
 212 satisfactory evidence that the applicant's International Society
 213 of Arboriculture certification is current and that the applicant
 214 is otherwise in compliance with this chapter and department
 215 rules.

216 (2) The licensed arborist must have on file with the
 217 department the address of her or his primary place of practice.
 218 Within 30 days after changing the address of her or his primary
 219 place of practice, the licensed arborist must notify the
 220 department of the address of the new primary place of practice.

221 598.008 Inactive licenses; reactivated licenses; suspended
 222 or revoked licenses.--A licensed arborist whose license has
 223 become inactive, suspended, or revoked shall have her or his
 224 license reactivated only upon written request to the department

225 and approval by the department to reactivate the license.

226 598.009 Lost, destroyed, stolen, or mutilated licenses.--A
 227 duplicate license for a licensed arborist may be issued to
 228 replace a license that has been lost, destroyed, stolen, or
 229 mutilated, subject to rules of the department. Licenses issued
 230 under this section shall be marked with the word "DUPLICATE."

231 598.011 Roster of licensed arborists.--The department
 232 shall maintain a roster showing the names and places of business
 233 of all licensed arborists in the state, based on requests for
 234 licensure.

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

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

241 604.15 Dealers in agricultural products; definitions.--For
 242 the purpose of ss. 604.15-604.34, the following words and terms,
 243 when used, shall be construed to mean:

244 (1) "Agricultural products" means the natural products of
 245 the farm, nursery, grove, orchard, vineyard, garden, and apiary
 246 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
 247 livestock; milk and milk products; poultry and poultry products;
 248 the fruit of the saw palmetto (meaning the fruit of the Serenoa
 249 repens); limes (meaning the fruit Citrus aurantifolia, variety
 250 Persian, Tahiti, Bearss, or Florida Key limes); and any other
 251 nonexempt agricultural products produced in the state, except
 252 tobacco, sugarcane, tropical foliage, timber and timber

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253 | byproducts, forest products as defined in s. 591.17, and citrus
254 | other than limes.

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