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LEGISLATIVE ACTION

Senate

House

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Floor: WD/3R

05/01/2009 12:04 PM

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Senator Dean moved the following:

**Senate Amendment (with title amendment)**

Between lines 2567 and 2568

insert:

Section 76. Chapter 598, Florida Statutes, consisting of sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006, 598.007, 598.008, 598.009, 598.011, and 598.012, is created to read:

CHAPTER 598

ARBORICULTURE

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



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13           598.002 Purpose.—It is declared to be the public policy of  
14 the state that, in order to safeguard life, health, and  
15 property; the mitigation of property insurance; the cleanup of  
16 damage from hurricanes, tropical storms, and other severe storm  
17 events; and the public well-being of its citizens, any person  
18 practicing or offering to practice arboriculture in this state  
19 as a licensed arborist shall meet the requirements of this  
20 chapter.

21           598.003 Definitions.—As used in this chapter:

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

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

39           (b) A service performed in connection with post-storm  
40 cleanup of damage from hurricanes, tropical storms, and other  
41 storm events that involves substantial work hours. A post-storm



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42 cleanup service includes, but is not limited to, storm damage  
43 resulting in downed, damaged, or uprooted trees, or parts of  
44 trees, of substantial size and weight in excess of 50 pounds  
45 that threaten the structural integrity of residential or  
46 commercial structures; involve any type of power lines; impede  
47 traffic on streets, driveways, and other vehicular access roads;  
48 require extensive use of compression or chain saws; and involve  
49 any related skilled service.

50 (c) This chapter does not:

51 1. Prohibit any person from practicing arboriculture or  
52 providing arboriculture services as defined in this chapter if  
53 such person does not hold himself or herself out as a state-  
54 licensed arborist unless he or she is licensed in compliance  
55 with this chapter.

56 2. Require any person to be a member of the International  
57 Society of Arboriculture in order to be licensed under this  
58 chapter.

59 (d) A landscape architect licensed under part II of chapter  
60 481 is authorized to practice arboriculture; however, as  
61 provided in s. 598.006(4), only a person licensed under this  
62 chapter may hold herself or himself out as a state-licensed  
63 arborist.

64 (e) To prevent injury to life or property after a disaster,  
65 state emergency response team members designated under the state  
66 comprehensive emergency management plan pursuant to chapter 252  
67 are authorized to provide and conduct charitable arboriculture  
68 services and to train volunteers to provide such services;  
69 however, as provided in s. 598.006(4), only a person licensed  
70 under this chapter may hold herself or himself out as a state-



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71 licensed arborist.

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

78 (3) "Department" means the Department of Agriculture and  
79 Consumer Services.

80 (4) "Landscape tree maintenance" means maintenance  
81 performed when standing on the ground or when performed on trees  
82 less than 4 inches in diameter at breast height as referenced in  
83 the Guide to Plant Appraisal.

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

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

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

98 (a) By verbal claim, sign, advertisement, letterhead, card,  
99 or any other means represents herself or himself to be an



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100 arborist;

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

103 (c) Holds herself or himself out as able to perform or does  
104 perform any arboriculture services or work recognized as an  
105 arborist.

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

112 (1) Organizational and operational guidance regarding the  
113 practice of arboriculture, arborists of record, and the  
114 requirements of the law regarding licensed arborists.

115 (2) Licensure process, including, but not limited to,  
116 requirements and procedures for licensure; insurance  
117 requirements and standards of the International Society of  
118 Arboriculture for licensed arborists; authorization cards;  
119 annual license renewal; language relating to licensure that may  
120 be used by licensed arborists for public information; duplicate  
121 licenses; lost, destroyed, or mutilated licenses; and inactive  
122 and reactivated licenses.

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

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

126 598.005 Fees.—

127 (1) The department shall by rule set fees as provided in  
128 this section. The amount of the fees shall not exceed the cost



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129 of the implementing, reviewing, or administrative processing of  
130 the particular activity or process. Licensure fees are  
131 nonrefundable and shall not exceed \$300 annually.

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

136 598.006 Licensure procedures and requirements; issuance of  
137 licenses.—

138 (1) Each applicant for licensure shall:

139 (a) Submit to the department an application for licensure  
140 that has been reviewed by the Florida Chapter, Board of  
141 Directors, International Society of Arboriculture, Inc., for  
142 completeness and compliance with this section, together with the  
143 nonrefundable fee set by the department under s. 598.005;

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

146 (c) Disclose any information related to the provisions of  
147 subsection (2);

148 (d) Submit evidence of current certification by the  
149 International Society of Arboriculture as a Board Certified  
150 Arborist or as a Board Certified Master Arborist;

151 (e) Provide proof of liability, required workers'  
152 compensation, and errors and omissions insurance; however, an  
153 applicant employed by a statutorily recognized governmental  
154 entity shall not be required to carry errors and omissions  
155 insurance or liability insurance if the entity is self-insured.  
156 Within 30 days after the termination of the person's employment  
157 with the governmental entity, the person shall fully comply with



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158 the requirements of this subsection; and

159 (f) Submit a signed statement that the applicant will  
160 comply with arboriculture industry standards, including, but not  
161 limited to, the national standards for tree operations and  
162 safety approved by the American National Standards Institute,  
163 the standards of the International Society of Arboriculture, and  
164 best management practices adopted by rule by the department.

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

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

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

172 (c) Has not satisfied a civil fine or penalty arising out  
173 of any administrative or enforcement action brought by any  
174 governmental agency or private person based upon conduct  
175 involving fraud, dishonest dealing, or any violation of this  
176 act;

177 (d) Has pending against her or him any criminal,  
178 administrative, or enforcement proceedings in any jurisdiction,  
179 based upon conduct involving fraud, dishonest dealing, or any  
180 other act of moral turpitude; or

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

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



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

190       (5) All final arboriculture papers or documents involving  
191 the practice of the profession of arboriculture under the  
192 supervision of a Florida-licensed arborist of record that have  
193 been prepared or approved for use by a firm, corporation,  
194 partnership, or person, for delivery to any person for public  
195 record within the state, shall be dated and bear the signature  
196 and seal of the Florida-licensed arborist of record who  
197 prepared, supervised, or approved the documents and who was  
198 responsible for the supervision of persons performing  
199 arboricultural services.

200       598.007 Renewal of licenses; notice of address of primary  
201 place of business.—

202       (1) The department shall renew a license upon receipt of  
203 satisfactory evidence that the applicant's International Society  
204 of Arboriculture certification is current and that the applicant  
205 is otherwise in compliance with this chapter and department  
206 rules.

207       (2) The licensed arborist must have on file with the  
208 department the address of her or his primary place of practice.  
209 Within 30 days after changing the address of her or his primary  
210 place of practice, the licensed arborist must notify the  
211 department of the address of the new primary place of practice.

212       598.008 Inactive licenses; reactivated licenses; suspended  
213 or revoked licenses.—A licensed arborist whose license has  
214 become inactive, suspended, or revoked shall have her or his  
215 license reactivated only upon written request to the department





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216 and approval by the department to reactivate the license.

217 598.009 Lost, destroyed, stolen, or mutilated licenses.—A

218 duplicate license for a licensed arborist may be issued to

219 replace a license that has been lost, destroyed, stolen, or

220 mutilated, subject to rules of the department. Licenses issued

221 under this section shall be marked with the word "DUPLICATE."

222 598.011 Roster of licensed arborists.—The department shall

223 maintain a roster showing the names and places of business of

224 all licensed arborists in the state, based on requests for

225 licensure.

226 598.012 The department may enforce the provisions of this

227 chapter by the use of notices to desist, appropriate judicial

228 proceedings, or administrative proceedings under chapter 120.

229 Section 77. Subsection (1) of section 604.15, Florida

230 Statutes, is amended to read:

231 604.15 Dealers in agricultural products; definitions.—For  
232 the purpose of ss. 604.15-604.34, the following words and terms,  
233 when used, shall be construed to mean:

234 (1) "Agricultural products" means the natural products of  
235 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
236 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;  
237 livestock; milk and milk products; poultry and poultry products;  
238 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*  
239 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety  
240 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
241 nonexempt agricultural products produced in the state, except  
242 tobacco, sugarcane, tropical foliage, timber and timber  
243 byproducts, forest products as defined in s. 591.17, and citrus  
244 other than limes.



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245           Section 78. There is hereby appropriated to the Department  
246 of Agriculture and Consumer Services one position and associated  
247 rate and expenses of \$72,280 from the Incidental Trust Fund in  
248 order to carry out the provisions of section 1 of this act.  
249  
250

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

252 And the title is amended as follows:

253           Delete line 251

254 and insert:

255           regulations; creating ch. 598, F.S.; providing a short  
256 title; providing a purpose statement; providing  
257 definitions; providing exceptions; providing powers  
258 and duties of the Department of Agriculture and  
259 Consumer Services; providing rulemaking authority;  
260 establishing a maximum annual fee for licensure;  
261 providing for deposit and use of fee proceeds;  
262 establishing licensure procedures and requirements to  
263 practice arboriculture and provide arboriculture  
264 services; providing for issuance of a license;  
265 providing grounds for denial of a license or refusal  
266 to renew a license; providing for license suspension  
267 or revocation; providing for license renewal;  
268 providing for reactivation of a license under certain  
269 conditions; providing for issuance of a duplicate  
270 license under certain circumstances; requiring a  
271 roster of licensed arborists; authorizing the  
272 department to enforce certain provisions of state law  
273 by specified means; amending s. 604.15, F.S.; revising



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274 a definition to make tropical foliage exempt from  
275 regulation under provisions relating to dealers in  
276 agricultural products; providing an appropriation;  
277 providing an effective date.