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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2009	.	
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The Committee on Community Affairs (Siplin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (d) of subsection (3) of section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(3) Except for violations involving hazardous wastes,



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12 asbestos, or underground injection, administrative penalties  
13 must be calculated according to the following schedule:

14 (d) For mangrove trimming or alteration violations, the  
15 department shall assess:

16 1. A penalty of up to \$5,000 per violation against any  
17 person who violates any provision of ss. 403.9321-403.9333 ~~the~~  
18 ~~contractor or agent of the owner or tenant that conducts~~  
19 ~~mangrove trimming or alteration without a permit as required by~~  
20 ~~s. 403.9328. However, for minor unauthorized trimming that~~  
21 otherwise would have qualified for a general permit under s.  
22 403.9327 or that has only minimal or insignificant individual or  
23 cumulative adverse impacts on mangrove resources, the department  
24 shall assess a penalty of up to \$1,000 for the first offense.  
25 For purposes of this paragraph, the preparation or signing of a  
26 permit application by a person currently licensed under chapter  
27 471 to practice as a professional engineer does ~~shall~~ not  
28 constitute a violation ~~make that person an agent of the owner or~~  
29 ~~tenant.~~

30 2. For major unauthorized trimming or a second or  
31 subsequent violation of subparagraph 1., an additional penalty  
32 of up to \$100 for each mangrove illegally trimmed and up to \$250  
33 for each mangrove illegally altered, not to exceed a total of  
34 \$10,000.

35 3. For major unauthorized trimming or a second or  
36 subsequent violation of subparagraph 1. by a professional  
37 mangrove trimmer, owner, or tenant, an additional penalty of up  
38 to \$250 for each mangrove illegally trimmed or altered, not to  
39 exceed a total of \$10,000.

40 Section 2. Subsection (3) of section 403.9323, Florida



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41 Statutes, is amended to read:

42 403.9323 Legislative intent.—

43 (3) It is the intent of the Legislature to provide  
44 waterfront property owners their riparian right of view, and  
45 other rights of riparian property ownership as recognized by s.  
46 253.141 and any other provision of law, by allowing mangrove  
47 trimming in riparian mangrove fringes without prior government  
48 approval when conducted in conformance with the provisions of  
49 ss. 403.9321-403.9333 and the trimming ~~activities~~ will not  
50 result in the removal, defoliation, or destruction of the  
51 mangroves.

52 Section 3. Present subsections (1) through (6) of section  
53 403.9324, Florida Statutes, are redesignated as subsections (2)  
54 through (7), respectively, a new subsection (1) is added to that  
55 section, and present subsections (1) and (4) of that section are  
56 amended, to read:

57 403.9324 Mangrove protection rule; delegation of mangrove  
58 protection to local governments.—

59 (1) The department may adopt rules providing for exemptions  
60 and general permits authorizing activities that have, singularly  
61 or cumulatively, a minimal adverse effect on the water resources  
62 of the state. This subsection does not grant the department the  
63 authority to adopt rules for the exemptions and general permits  
64 provided in ss. 403.9326 and 403.9327.

65 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful  
66 regulations adopted in accordance with this section by a local  
67 government that receives a delegation of the department's  
68 authority to administer and enforce the regulation of mangroves  
69 as provided by this section shall be the sole regulations in



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70 this state for the trimming and alteration of mangroves on  
71 privately or publicly owned lands. All other state and local  
72 regulation of mangrove is as provided in subsection (4) ~~(3)~~.

73 (5)~~(4)~~ Within 45 days after receipt of a written request  
74 for delegation from a local government, the department shall  
75 grant or deny the request in writing. The request is deemed  
76 approved if the department fails to respond within the 45-day  
77 ~~time~~ period. In reviewing requests for delegation, the  
78 department shall limit its review to whether the request  
79 complies with the requirements of subsection (3) ~~(2)~~. The  
80 department shall set forth in writing with specificity the  
81 reasons for denial of a request for delegation. The department's  
82 determination regarding delegation constitutes final agency  
83 action and is subject to review under chapter 120.

84 Section 4. Subsection (7) of section 403.9325, Florida  
85 Statutes, is amended to read:

86 403.9325 Definitions.—For the purposes of ss. 403.9321-  
87 403.9333, the term:

88 (7) "Riparian mangrove fringe" means mangroves growing  
89 along the shoreline on private property, property owned by a  
90 governmental entity, or sovereign submerged land, the depth of  
91 which does not exceed 50 feet as measured waterward from the  
92 trunk of the most landward mangrove tree in a direction  
93 perpendicular to the shoreline to the trunk of the most  
94 waterward mangrove tree. Riparian mangrove fringe does not  
95 include mangroves on uninhabited natural islands, ~~or~~ public  
96 lands that have been set aside for conservation or preservation,  
97 or mangroves on lands that have been set aside as mitigation, if  
98 the permit, enforcement instrument, or conservation easement



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99 establishing the mitigation area did not include provisions for  
100 the trimming of mangroves.

101 Section 5. Subsection (5) of section 403.9329, Florida  
102 Statutes, is amended to read:

103 403.9329 Professional mangrove trimmers.—

104 (5) A professional mangrove trimmer status granted under  
105 ss. 403.9321-403.9333 or by the department may be revoked by the  
106 department for any person who is responsible for any violations  
107 of ss. 403.9321-403.9333 or any adopted mangrove rules.

108 Section 6. Subsection (3) is added to section 403.9331,  
109 Florida Statutes, to read:

110 403.9331 Applicability; rules and policies.—

111 (3) Pursuant to s. 403.9323(2), the provisions of ss.  
112 403.9321-403.9333 do not allow the trimming of mangroves on  
113 uninhabited natural islands that are publicly owned or on lands  
114 that are set aside for conservation and preservation or  
115 mitigation, except where necessary to protect the public health,  
116 safety, and welfare or to enhance public use of, or access to,  
117 conservation areas in accordance with approved management plans.

118 Section 7. This act shall take effect July 1, 2009.

119  
120 ===== T I T L E A M E N D M E N T =====

121 And the title is amended as follows:

122 Delete everything before the enacting clause  
123 and insert:

124 A bill to be entitled

125 An act relating to mangrove protection; amending s.

126 403.121, F.S.; expanding the penalty previously

127 applicable to violations involving mangrove trimming



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128 or alteration to apply to any violation under the  
129 Mangrove Trimming and Preservation Act; amending s.  
130 403.9323, F.S.; clarifying legislative intent with  
131 respect to the protection of mangroves; amending s.  
132 403.9324, F.S.; authorizing the Department of  
133 Environmental Protection to adopt by rule certain  
134 exemptions and general permits under the Mangrove  
135 Trimming and Preservation Act; amending s. 403.9325,  
136 F.S.; revising the definition of "riparian mangrove  
137 fringe"; amending s. 403.9329, F.S.; clarifying the  
138 department's authority to revoke a person's status as  
139 a professional mangrove trimmer; amending s. 403.9331,  
140 F.S.; providing that the Mangrove Trimming and  
141 Preservation Act does not authorize trimming on  
142 uninhabited natural islands or lands that are publicly  
143 owned or set aside for conservation or mitigation  
144 except under specified circumstances; providing an  
145 effective date.