

By Senator Aronberg

27-00005-09

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1                   A bill to be entitled  
2       An act relating to mangrove protection; amending s.  
3       403.121, F.S.; expanding the penalty previously  
4       applicable to violations involving mangrove trimming  
5       or alteration to apply to any violation under the  
6       Mangrove Trimming and Preservation Act; amending s.  
7       403.9323, F.S.; clarifying legislative intent with  
8       respect to the protection of mangroves; amending s.  
9       403.9324, F.S.; authorizing the Department of  
10      Environmental Protection to adopt by rule certain  
11      exemptions and general permits under the Mangrove  
12      Trimming and Preservation Act; amending s. 403.9329,  
13      F.S.; clarifying the department's authority to revoke  
14      a person's status as a professional mangrove trimmer;  
15      amending s. 403.9331, F.S.; providing that the  
16      Mangrove Trimming and Preservation Act does not  
17      authorize trimming on uninhabited islands or lands  
18      that are publicly owned or set aside for conservation  
19      or mitigation except under specified circumstances;  
20      providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Paragraph (d) of subsection (3) of section  
25       403.121, Florida Statutes, is amended to read:

26       403.121 Enforcement; procedure; remedies.—The department  
27       shall have the following judicial and administrative remedies  
28       available to it for violations of this chapter, as specified in  
29       s. 403.161(1).

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30 (3) Except for violations involving hazardous wastes,  
31 asbestos, or underground injection, administrative penalties  
32 must be calculated according to the following schedule:

33 (d) ~~For mangrove trimming or alteration violations,~~ The  
34 department shall assess a penalty of \$5,000 per violation  
35 against any person who violates any provision of ss. 403.9321-  
36 403.9333 ~~the contractor or agent of the owner or tenant that~~  
37 ~~conducts mangrove trimming or alteration without a permit as~~  
38 ~~required by s. 403.9328. For purposes of this paragraph, the~~  
39 ~~preparation or signing of a permit application by a person~~  
40 ~~currently licensed under chapter 471 to practice as a~~  
41 ~~professional engineer shall not make that person an agent of the~~  
42 ~~owner or tenant.~~

43 Section 2. Subsection (3) of section 403.9323, Florida  
44 Statutes, is amended to read:

45 403.9323 Legislative intent.—

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

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

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59 403.9324 Mangrove protection rule; delegation of mangrove  
60 protection to local governments.-

61 (1) The department may adopt rules providing for exemptions  
62 and general permits authorizing activities that have, singularly  
63 or cumulatively, a minimal adverse effect on the water resources  
64 of the state.

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  
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 (5) of section 403.9329, Florida  
85 Statutes, is amended to read:

86 403.9329 Professional mangrove trimmers.-

87 (5) A professional mangrove trimmer status granted under

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88 ss. 403.9321-403.9333 or by the department may be revoked by the  
89 department for any person who is responsible for any violations  
90 of ss. 403.9321-403.9333 or any adopted mangrove rules.

91 Section 5. Subsection (3) is added to section 403.9331,  
92 Florida Statutes, to read:

93 403.9331 Applicability; rules and policies.—

94 (3) Pursuant to s. 403.9323(2), the provisions of ss.  
95 403.9321-403.9333 do not allow the trimming of mangroves on  
96 uninhabited islands that are publicly owned or on lands that are  
97 set aside for conservation and preservation or mitigation,  
98 except where necessary to protect the public health, safety, and  
99 welfare or to enhance public use of, or access to, conservation  
100 areas in accordance with approved management plans.

101 Section 6. This act shall take effect July 1, 2009.