

By the Committee on Environmental Preservation and Conservation;
and Senator Aronberg

592-02340-09

2009148c1

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).

592-02340-09

2009148c1

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:

35 1. A penalty of up to \$5,000 per violation against any
36 person who violates any provision of ss. 403.9321-403.9333 the
37 contractor or agent of the owner or tenant that conducts
38 mangrove trimming or alteration without a permit as required by
39 s. 403.9328. However, for minor unauthorized trimming that
40 otherwise would have qualified for a general permit under s.
41 403.9327 or that has only minimal or insignificant individual or
42 cumulative adverse impacts on mangrove resources, the department
43 shall assess a penalty of up to \$1,000 for the first offense.
44 For purposes of this paragraph, the preparation or signing of a
45 permit application by a person currently licensed under chapter
46 471 to practice as a professional engineer does shall not
47 constitute a violation ~~make that person an agent of the owner or~~
48 ~~tenant.~~

49 2. For major unauthorized trimming or a second or
50 subsequent violation of subparagraph 1., an additional penalty
51 of up to \$100 for each mangrove illegally trimmed and up to \$250
52 for each mangrove illegally altered, not to exceed a total of
53 \$10,000.

54 3. For major unauthorized trimming or a second or
55 subsequent violation of subparagraph 1. by a professional
56 mangrove trimmer, an additional penalty of up to \$250 for each
57 mangrove illegally trimmed or altered, not to exceed a total of
58 \$10,000.

592-02340-09

2009148c1

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

61 403.9323 Legislative intent.—

62 (3) It is the intent of the Legislature to provide
63 waterfront property owners their riparian right of view, and
64 other rights of riparian property ownership as recognized by s.
65 253.141 and any other provision of law, by allowing mangrove
66 trimming in riparian mangrove fringes without prior government
67 approval when conducted in conformance with the provisions of
68 ss. 403.9321-403.9333 and the trimming activities will not
69 result in the removal, defoliation, or destruction of the
70 mangroves.

71 Section 3. Present subsections (1) through (6) of section
72 403.9324, Florida Statutes, are redesignated as subsections (2)
73 through (7), respectively, a new subsection (1) is added to that
74 section, and present subsections (1) and (4) of that section are
75 amended, to read:

76 403.9324 Mangrove protection rule; delegation of mangrove
77 protection to local governments.—

78 (1) The department may adopt rules providing for exemptions
79 and general permits authorizing activities that have, singularly
80 or cumulatively, a minimal adverse effect on the water resources
81 of the state. This subsection does not grant the department the
82 authority to adopt rules for the exemptions and general permits
83 provided in ss. 403.9326 and 403.9327.

84 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful
85 regulations adopted in accordance with this section by a local
86 government that receives a delegation of the department's
87 authority to administer and enforce the regulation of mangroves

592-02340-09

2009148c1

88 as provided by this section shall be the sole regulations in
89 this state for the trimming and alteration of mangroves on
90 privately or publicly owned lands. All other state and local
91 regulation of mangrove is as provided in subsection (4) ~~(3)~~.

92 ~~(5)~~ ~~(4)~~ Within 45 days after receipt of a written request
93 for delegation from a local government, the department shall
94 grant or deny the request in writing. The request is deemed
95 approved if the department fails to respond within the 45-day
96 ~~time~~ period. In reviewing requests for delegation, the
97 department shall limit its review to whether the request
98 complies with the requirements of subsection (3) ~~(2)~~. The
99 department shall set forth in writing with specificity the
100 reasons for denial of a request for delegation. The department's
101 determination regarding delegation constitutes final agency
102 action and is subject to review under chapter 120.

103 Section 4. Subsection (5) of section 403.9329, Florida
104 Statutes, is amended to read:

105 403.9329 Professional mangrove trimmers.—

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

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

112 403.9331 Applicability; rules and policies.—

113 (3) Pursuant to s. 403.9323(2), the provisions of ss.
114 403.9321-403.9333 do not allow the trimming of mangroves on
115 uninhabited islands that are publicly owned or on lands that are
116 set aside for conservation and preservation or mitigation,

592-02340-09

2009148c1

117 except where necessary to protect the public health, safety, and
118 welfare or to enhance public use of, or access to, conservation
119 areas in accordance with approved management plans.

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