

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

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1 A bill to be entitled
2 An act relating to water resources; amending s.
3 373.185, F.S.; revising the definition of Florida-
4 friendly landscaping; deleting references to
5 "xeriscape"; requiring water management districts to
6 provide model Florida-friendly landscaping ordinances
7 to local governments; revising eligibility criteria
8 for certain incentive programs of the water management
9 districts; requiring certain local government
10 ordinances and amendments to include certain design
11 standards and identify specified invasive exotic plant
12 species; requiring water management districts to
13 consult with additional entities for activities
14 relating to Florida-friendly landscaping practices;
15 specifying programs for the delivery of educational
16 programs relating to such practices; providing
17 legislative findings; providing that certain
18 regulations prohibiting the implementation of Florida-
19 friendly landscaping or conflicting with provisions
20 governing the permitting of consumptive uses of water
21 are prohibited; providing that the act does not limit
22 the authority of the department or the water
23 management districts to require Florida-friendly
24 landscaping ordinances or practices as a condition of
25 certain permit; creating s. 373.187, F.S.; requiring
26 water management districts to implement Florida-
27 friendly landscaping practices on specified
28 properties; requiring districts to develop specified
29 programs for implementing such practices on other

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30 specified properties; amending s. 373.228, F.S.;

31 requiring water management districts to work with

32 specified entities to develop certain standards;

33 requiring water management districts to consider

34 certain information in evaluating water use

35 applications from public water suppliers; conforming

36 provisions to changes made by the act; amending s.

37 373.323, F.S.; revising application requirements for

38 water well contractor licensure; requiring applicants

39 to provide specified documentation; amending s.

40 373.333, F.S.; authorizing an administrative fine to

41 be imposed for each occurrence of unlicensed well

42 water contracting; amending ss. 125.568, 166.048,

43 255.259, 335.167, 380.061, 388.291, 481.303, and

44 720.3075, F.S.; conforming provisions to changes made

45 by the act; revising provisions requiring the use of

46 Florida-friendly landscaping for specified public

47 properties and highway construction and maintenance

48 projects; providing an effective date.

49

50 Be It Enacted by the Legislature of the State of Florida:

51

52 Section 1. Section 373.185, Florida Statutes, is amended to

53 read:

54 373.185 Local Florida-friendly landscaping ~~Xeriscape~~

55 ordinances.—

56 (1) As used in this section, the term:

57 (a) "Local government" means any county or municipality of

58 the state.

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59 (b) ~~"Xeriscape" or "Florida-friendly landscaping landscape"~~
60 means quality landscapes that conserve water, and protect the
61 environment, ~~and~~ are adaptable to local conditions, and ~~which~~
62 are drought tolerant. The principles of such landscaping
63 ~~Xeriscape~~ include planting the right plant in the right place,
64 efficient watering, appropriate fertilization, mulching,
65 attraction of wildlife, responsible management of yard pests,
66 recycling yard waste, reduction of stormwater runoff, and
67 waterfront protection. Additional components include practices
68 such as landscape planning and design, appropriate choice of
69 ~~plants,~~ soil analysis, which may include the appropriate use of
70 solid waste compost, minimizing the use of efficient irrigation,
71 ~~practical use of turf, appropriate use of mulches,~~ and proper
72 maintenance.

73 (2) Each water management district shall design and
74 implement an incentive program to encourage all local
75 governments within its district to adopt new ordinances or amend
76 existing ordinances to require Florida-friendly Xeriscape
77 landscaping for development permitted after the effective date
78 of the new ordinance or amendment. ~~Each district shall adopt~~
79 ~~rules governing the implementation of its incentive program and~~
80 ~~governing the review and approval of local government Xeriscape~~
81 ~~ordinances or amendments which are intended to qualify a local~~
82 ~~government for the incentive program.~~ Each district shall assist
83 the local governments within its jurisdiction by providing a
84 model Florida-friendly landscaping ordinance Xeriscape code and
85 other technical assistance. Each district may develop its own
86 model or use a model contained in the "Florida-Friendly
87 Landscape Guidance Models for Ordinances, Covenants, and

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88 Restrictions” manual developed by the department. To qualify for
89 a district’s incentive program, a local government ~~Xeriscape~~
90 ordinance or amendment, ~~in order to qualify the local government~~
91 ~~for a district’s incentive program,~~ must include, at a minimum:

92 (a) Landscape design, installation, and maintenance
93 standards that result in water conservation and water quality
94 protection or restoration. Such standards must ~~shall~~ address the
95 use of plant groupings, soil analysis including the promotion of
96 the use of solid waste compost, efficient irrigation systems,
97 and other water-conserving practices.

98 (b) Identification of prohibited invasive exotic plant
99 species consistent with s. 581.091.

100 (c) Identification of controlled plant species, accompanied
101 by the conditions under which such plants may be used.

102 (d) A provision specifying the maximum percentage of
103 irrigated turf and ~~the maximum percentage of~~ impervious surfaces
104 allowed in a Florida-friendly landscaped ~~xeriscaped~~ area and
105 addressing the practical selection and installation of turf.

106 (e) Specific standards for land clearing and requirements
107 for the preservation of existing native vegetation.

108 (f) A monitoring program for ordinance implementation and
109 compliance.

110 (3) Each water management district shall also ~~The districts~~
111 ~~also shall~~ work with the department, local governments, county
112 extension agents or offices, nursery and landscape industry
113 groups, and other interested stakeholders to promote, through
114 educational programs, ~~and~~ publications, and other district
115 activities authorized under this chapter, the use of Florida-
116 friendly landscaping ~~Xeriscape~~ practices, including the use of

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117 solid waste compost, in ~~existing~~ residential and commercial
118 development. In conducting these activities, each district shall
119 use the materials developed by the department, the Institute of
120 Food and Agricultural Sciences at the University of Florida, and
121 the Center for Landscape Conservation and Ecology Florida-
122 Friendly Landscaping program, including, but not limited to, the
123 Florida Yards and Neighborhoods Program for homeowners, the
124 Florida Yards and Neighborhoods Builder Developer Program for
125 developers, and the Green Industries Best Management Practices
126 Program for landscaping professionals. Each district may develop
127 supplemental materials as appropriate to address the physical
128 and natural characteristics of the district. The districts shall
129 coordinate with the department and the Institute of Food and
130 Agricultural Sciences at the University of Florida if revisions
131 to the educational materials are needed. ~~This section may not be~~
132 ~~construed to limit the authority of the districts to require~~
133 ~~Xeriscape ordinances or practices as a condition of any~~
134 ~~consumptive use permit.~~

135 (a) The Legislature finds that the use of Florida-friendly
136 landscaping and other water use and pollution prevention
137 measures to conserve or protect the state's water resources
138 serves a compelling public interest and that the participation
139 of homeowners' associations and local governments is essential
140 to state's efforts in water conservation and water quality
141 protection and restoration.

142 (b) ~~(3)~~ A deed restriction, ~~or~~ covenant entered after
143 ~~October 1, 2001~~, or local government ordinance may not prohibit
144 or be enforced so as to prohibit any property owner from
145 implementing ~~Xeriscape~~ or Florida-friendly landscaping landscape

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146 on his or her land or create any requirement or limitation in
147 conflict with any provision of part II of this chapter or a
148 water shortage order, other order, consumptive use permit, or
149 rule adopted or issued pursuant to part II of this chapter.

150 (4) This section does not limit the authority of the
151 department or the water management districts to require Florida-
152 friendly landscaping ordinances or practices as a condition of
153 any permit issued under this chapter.

154 Section 2. Section 373.187, Florida Statutes, is created to
155 read:

156 373.187 Water management district implementation of
157 Florida-friendly landscaping.—Each water management district
158 shall use Florida-friendly landscaping, as defined in s.
159 373.185, on public property associated with buildings and
160 facilities owned by the district and constructed after June 30,
161 2009. Each district shall also develop a 5-year program for
162 phasing in the use of Florida-friendly landscaping on public
163 property associated with buildings or facilities owned by the
164 district and constructed before July 1, 2009.

165 Section 3. Section 373.228, Florida Statutes, is amended to
166 read:

167 373.228 Landscape irrigation design.—

168 (1) The Legislature finds that multiple areas throughout
169 the state have been identified by water management districts as
170 water resource caution areas, which indicates that in the near
171 future water demand in those areas will exceed the current
172 available water supply and that conservation is one of the
173 mechanisms by which future water demand will be met.

174 (2) The Legislature finds that landscape irrigation

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175 comprises a significant portion of water use and that ~~the~~
176 current typical landscape irrigation systems ~~system~~ and Florida-
177 friendly landscaping ~~xeriscape~~ designs offer significant
178 potential water conservation benefits.

179 (3) It is the intent of the Legislature to improve
180 landscape irrigation water use efficiency by ensuring that
181 landscape irrigation systems meet or exceed minimum design
182 criteria.

183 (4) The water management districts shall work with the
184 Florida Nursery, Nurserymen and Growers and Landscape
185 Association, the Florida Native Plant Society, the Florida
186 Chapter of the American Society of Landscape Architects, the
187 Florida Irrigation Society, the Department of Agriculture and
188 Consumer Services, the Institute of Food and Agricultural
189 Sciences, the Department of Environmental Protection, the
190 Department of Transportation, the Florida League of Cities, the
191 Florida Association of Counties, and the Florida Association of
192 Community Developers to develop landscape irrigation and
193 Florida-friendly landscaping ~~xeriscape~~ design standards for new
194 construction which incorporate a landscape irrigation system and
195 develop scientifically based model guidelines for urban,
196 commercial, and residential landscape irrigation, including drip
197 irrigation, for plants, trees, sod, and other landscaping. The
198 ~~landscape and irrigation design~~ standards shall be based on the
199 irrigation code defined in the Florida Building Code, Plumbing
200 Volume, Appendix F. Local governments shall use the standards
201 and guidelines when developing landscape irrigation and Florida-
202 friendly landscaping ~~xeriscape~~ ordinances. By January 1, 2011,
203 the agencies and entities specified in this subsection shall

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204 review the standards and guidelines to determine whether new
205 research findings require a change or modification of the
206 standards and guidelines.

207 (5) In evaluating water use applications from public water
208 suppliers, water management districts shall consider whether the
209 applicable local government has adopted ordinances for
210 landscaping and irrigation systems consistent with the Florida-
211 friendly landscaping provisions of s. 373.185.

212 Section 4. Subsection (3) of section 373.323, Florida
213 Statutes, is amended to read:

214 373.323 Licensure of water well contractors; application,
215 qualifications, and examinations; equipment identification.—

216 (3) An applicant who meets the following requirements is
217 ~~shall be~~ entitled to take the water well contractor licensure
218 examination ~~to practice water well contracting~~:

219 (a) Is at least 18 years of age.

220 (b) Has at least 2 years of experience in constructing,
221 repairing, or abandoning water wells. Satisfactory proof of such
222 experience is demonstrated by providing:

223 1. Evidence of the length of time the applicant has been
224 engaged in the business of the construction, repair, or
225 abandonment of water wells as a major activity, as attested to
226 by a letter from three of the following persons:

227 a. A water well contractor.

228 b. A water well driller.

229 c. A water well parts and equipment vendor.

230 d. A water well inspector employed by a governmental
231 agency.

232 2. A list of at least 10 water wells that the applicant has

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233 constructed, repaired, or abandoned within the preceding 5
234 years. Of these wells, at least seven must have been
235 constructed, as defined in s. 373.303(2), by the applicant. The
236 list must also include:

237 a. The name and address of the owner or owners of each
238 well.

239 b. The location, primary use, and approximate depth and
240 diameter of each well.

241 c. The approximate date the construction, repair, or
242 abandonment of each well was completed.

243 (c) Has completed the application form and remitted a
244 nonrefundable application fee.

245 Section 5. Subsection (8) of section 373.333, Florida
246 Statutes, is amended to read:

247 373.333 Disciplinary guidelines; adoption and enforcement;
248 license suspension or revocation.—

249 (8) The water management district may impose through an
250 order an administrative fine not to exceed \$5,000 per occurrence
251 against an unlicensed person if ~~when~~ it determines that the
252 unlicensed person has engaged in the practice of water well
253 contracting~~r~~ for which a license is required.

254 Section 6. Section 125.568, Florida Statutes, is amended to
255 read:

256 125.568 Conservation of water; Florida-friendly landscaping
257 ~~Xeriscape~~.—

258 (1) (a) The Legislature finds that Florida-friendly
259 landscaping ~~Xeriscape~~ contributes to the conservation,
260 protection, and restoration of water. In an effort to meet the
261 water needs of this state in a manner that will supply adequate

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262 and dependable supplies of water where needed, it is the intent
263 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~
264 be an essential part of water conservation and water quality
265 protection and restoration planning.

266 (b) As used in this section, ~~"Xeriscape" or "Florida-~~
267 ~~friendly landscaping" has the same meaning as in s. 373.185~~
268 ~~landscape" means quality landscapes that conserve water and~~
269 ~~protect the environment and are adaptable to local conditions~~
270 ~~and which are drought tolerant. The principles of Xeriscape~~
271 ~~include planning and design, appropriate choice of plants, soil~~
272 ~~analysis which may include the use of solid waste compost,~~
273 ~~practical use of turf, efficient irrigation, appropriate use of~~
274 ~~mulches, and proper maintenance.~~

275 (2) The board of county commissioners of each county shall
276 consider enacting ordinances, consistent with s. 373.185,
277 requiring the use of Florida-friendly landscaping ~~Xeriscape~~ as a
278 water conservation or water quality protection or restoration
279 measure. If the board determines that such landscaping ~~Xeriscape~~
280 would be of significant benefit as a water conservation or water
281 quality protection or restoration measure, especially for waters
282 designated as impaired pursuant to s. 403.067, relative to the
283 cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its
284 area of jurisdiction, the board shall enact a Florida-friendly
285 landscaping ~~Xeriscape~~ ordinance. Further, the board of county
286 commissioners shall consider promoting Florida-friendly
287 landscaping ~~Xeriscape~~ as a water conservation or water quality
288 protection or restoration measure by: using such landscaping
289 ~~Xeriscape~~ in any, ~~around, or near~~ facilities, parks, and other
290 ~~common~~ areas under its jurisdiction which are landscaped after

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291 the effective date of this act; providing public education on
292 Florida-friendly landscaping ~~Xeriscape~~, its uses in increasing
293 ~~as a~~ water conservation and water quality protection or
294 restoration ~~tool~~, and its long-term cost-effectiveness; and
295 offering incentives to local residents and businesses to
296 implement Florida-friendly ~~Xeriscape~~ landscaping.

297 (3) (a) The Legislature finds that the use of Florida-
298 friendly landscaping and other water use and pollution
299 prevention measures to conserve or protect the state's water
300 resources serves a compelling public interest and that the
301 participation of homeowners' associations and local governments
302 is essential to the state's efforts in water conservation and
303 water quality protection and restoration.

304 (b) A deed restriction, or covenant entered after October
305 1, 2001, or local government ordinance may not prohibit or be
306 enforced so as to prohibit any property owner from implementing
307 ~~Xeriscape~~ or Florida-friendly landscaping ~~landscape~~ on his or
308 her land or create any requirement or limitation in conflict
309 with any provision of part II of chapter 373 or a water shortage
310 order, other order, consumptive use permit, or rule adopted or
311 issued pursuant to part II of chapter 373.

312 Section 7. Section 166.048, Florida Statutes, is amended to
313 read:

314 166.048 Conservation of water; Florida-friendly landscaping
315 ~~Xeriscape~~.—

316 (1) (a) The Legislature finds that Florida-friendly
317 landscaping ~~Xeriscape~~ contributes to the conservation,
318 protection, and restoration of water. In an effort to meet the
319 water needs of this state in a manner that will supply adequate

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320 and dependable supplies of water where needed, it is the intent
321 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~
322 be an essential part of water conservation and water quality
323 protection and restoration planning.

324 (b) As used in this section, ~~"Xeriscape" or "Florida-~~
325 ~~friendly landscaping"~~ has the same meaning as in s. 373.185
326 ~~landscape"~~ ~~means quality landscapes that conserve water and~~
327 ~~protect the environment and are adaptable to local conditions~~
328 ~~and which are drought tolerant. The principles of Xeriscape~~
329 ~~include planning and design, appropriate choice of plants, soil~~
330 ~~analysis which may include the use of solid waste compost,~~
331 ~~practical use of turf, efficient irrigation, appropriate use of~~
332 ~~mulches, and proper maintenance.~~

333 (2) The governing body of each municipality shall consider
334 enacting ordinances, consistent with s. 373.185, requiring the
335 use of Florida-friendly landscaping ~~Xeriscape~~ as a water
336 conservation or water quality protection or restoration measure.
337 If the governing body determines that such landscaping ~~Xeriscape~~
338 would be of significant benefit as a water conservation or water
339 quality protection or restoration measure, especially for waters
340 designated as impaired pursuant to s. 403.067, relative to the
341 cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its
342 area of jurisdiction in the municipality, the governing body
343 ~~board~~ shall enact a Florida-friendly landscaping ~~Xeriscape~~
344 ordinance. Further, the governing body shall consider promoting
345 Florida-friendly landscaping ~~Xeriscape~~ as a water conservation
346 or water quality protection or restoration measure by: using
347 such landscaping ~~Xeriscape~~ in any, ~~around,~~ ~~or near facilities,~~
348 ~~parks, and other common~~ areas under its jurisdiction which are

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349 landscaped after the effective date of this act; providing
350 public education on Florida-friendly landscaping ~~Xeriscape~~, its
351 uses in increasing as a water conservation and water quality
352 protection or restoration tool, and its long-term cost-
353 effectiveness; and offering incentives to local residents and
354 businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

355 (3) (a) The Legislature finds that the use of Florida-
356 friendly landscaping and other water use and pollution
357 prevention measures to conserve or protect the state's water
358 resources serves a compelling public interest and that the
359 participation of homeowners' associations and local governments
360 is essential to the state's efforts in water conservation and
361 water quality protection and restoration.

362 (b) A deed restriction, or covenant entered after October
363 1, 2001, or local government ordinance may not prohibit or be
364 enforced so as to prohibit any property owner from implementing
365 ~~Xeriscape~~ or Florida-friendly landscaping landscape on his or
366 her land or create any requirement or limitation in conflict
367 with any provision of part II of chapter 373 or a water shortage
368 order, other order, consumptive use permit, or rule adopted or
369 issued pursuant to part II of chapter 373.

370 Section 8. Section 255.259, Florida Statutes, is amended to
371 read:

372 255.259 Florida-friendly ~~Xeriscape~~ landscaping on public
373 property.—

374 (1) The Legislature finds that water conservation and water
375 quality protection and restoration are ~~is~~ increasingly critical
376 to the continuance of an adequate water supply and healthy
377 surface and ground waters ~~for the citizens of this state.~~ The

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378 Legislature further finds that "Florida-friendly landscaping
379 ~~Xeriscape~~," as defined in s. 373.185, can contribute
380 significantly to water ~~the~~ conservation and ~~of~~ water quality
381 protection and restoration. Finally, the Legislature finds that
382 state government has the responsibility to promote Florida-
383 friendly landscaping ~~Xeriscape~~ as a water conservation and water
384 quality protection and restoration measure by using such
385 landscaping ~~Xeriscape~~ on public property associated with
386 publicly owned buildings or facilities.

387 (2) As used in this section, "publicly owned buildings or
388 facilities" means ~~these~~ construction projects under the purview
389 of the Department of Management Services. The term ~~It~~ does not
390 include environmentally endangered land or roads and highway
391 construction under the purview of the Department of
392 Transportation.

393 (3) The Department of Management Services, in consultation
394 with the Department of Environmental Protection, shall adopt
395 rules and guidelines for the required use of Florida-friendly
396 landscaping ~~Xeriscape~~ on public property associated with
397 publicly owned buildings or facilities constructed after June
398 30, 2009 ~~1992~~. The Department of Management Services ~~also~~ shall
399 also develop a 5-year program for phasing in the use of Florida-
400 friendly landscaping ~~Xeriscape~~ on public property associated
401 with publicly owned buildings or facilities constructed before
402 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department
403 of Management Services shall take into account the standards
404 provided in ~~guidelines set out in~~ s. 373.185(2)(a)-(f). The
405 Department of Transportation shall implement Florida-friendly
406 ~~Xeriscape~~ landscaping pursuant to s. 335.167.

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407 (4) (a) The Legislature finds that the use of Florida-
408 friendly landscaping and other water use and pollution
409 prevention measures to conserve or protect the state's water
410 resources serves a compelling public interest and that the
411 participation of homeowners' associations and local governments
412 is essential to the state's efforts in water conservation and
413 water quality protection and restoration.

414 (b) A deed restriction, ~~or~~ covenant entered after October
415 1, 2001, or local government ordinance may not prohibit or be
416 enforced so as to prohibit any property owner from implementing
417 ~~Xeriscape or~~ Florida-friendly landscaping landscape on his or
418 her land or create any requirement or limitation in conflict
419 with any provision of part II of chapter 373 or a water shortage
420 order, other order, consumptive use permit, or rule adopted or
421 issued pursuant to part II of chapter 373.

422 Section 9. Section 335.167, Florida Statutes, is amended to
423 read:

424 335.167 State highway construction and maintenance;
425 ~~Xeriscape or~~ Florida-friendly landscaping.-

426 (1) The department shall use and require the use of
427 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in
428 s. 373.185(1), in the construction and maintenance of all new
429 state highways, wayside parks, access roads, welcome stations,
430 and other state highway rights-of-way constructed upon or
431 acquired after June 30, 2009 ~~1992~~. The department shall develop
432 a 5-year program for phasing in the use of Florida-friendly
433 landscaping ~~Xeriscape~~, including the use of solid waste compost,
434 in state highway rights-of-way constructed upon or acquired
435 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the

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436 department shall employ the standards ~~guidelines~~ set out in s.
437 373.185(2) (a) ~~-(f)~~.

438 (2) (a) The Legislature finds that the use of Florida-
439 friendly landscaping and other water use and pollution
440 prevention measures to conserve or protect the state's water
441 resources serves a compelling public interest and that the
442 participation of homeowners' associations and local governments
443 is essential to the state's efforts in water conservation and
444 water quality protection and restoration.

445 (b) A deed restriction, ~~or~~ covenant ~~entered after October~~
446 ~~1, 2001~~, or local government ordinance may not prohibit or be
447 enforced so as to prohibit any property owner from implementing
448 ~~Xeriscape or Florida-friendly landscaping landscape~~ on his or
449 her land or create any requirement or limitation in conflict
450 with any provision of part II of chapter 373 or a water shortage
451 order, other order, consumptive use permit, or rule adopted or
452 issued pursuant to part II of chapter 373.

453 Section 10. Paragraph (a) of subsection (3) of section
454 380.061, Florida Statutes, is amended to read:

455 380.061 The Florida Quality Developments program.—

456 (3) (a) To be eligible for designation under this program,
457 the developer shall comply with each of the following
458 requirements if ~~which is~~ applicable to the site of a qualified
459 development:

460 1. Donate or enter ~~Have donated or entered~~ into a binding
461 commitment to donate the fee or a lesser interest sufficient to
462 protect, in perpetuity, the natural attributes of the types of
463 land listed below. In lieu of this ~~the above~~ requirement, the
464 developer may enter into a binding commitment that ~~which~~ runs

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465 with the land to set aside such areas on the property, in
466 perpetuity, as open space to be retained in a natural condition
467 or as otherwise permitted under this subparagraph. Under the
468 requirements of this subparagraph, the developer may reserve the
469 right to use such areas for ~~the purpose of~~ passive recreation
470 that is consistent with the purposes for which the land was
471 preserved.

472 a. Those wetlands and water bodies throughout the state
473 which ~~as~~ would be delineated if the provisions of s.
474 373.4145(1) (b) were applied. The developer may use such areas
475 for the purpose of site access, provided other routes of access
476 are unavailable or impracticable; may use such areas for the
477 purpose of stormwater or domestic sewage management and other
478 necessary utilities if ~~to the extent that~~ such uses are
479 permitted pursuant to chapter 403; or may redesign or alter
480 wetlands and water bodies within the jurisdiction of the
481 Department of Environmental Protection which have been
482 artificially created, if the redesign or alteration is done so
483 as to produce a more naturally functioning system.

484 b. Active beach or primary and, where appropriate,
485 secondary dunes, to maintain the integrity of the dune system
486 and adequate public accessways to the beach. However, the
487 developer may retain the right to construct and maintain
488 elevated walkways over the dunes to provide access to the beach.

489 c. Known archaeological sites determined to be of
490 significance by the Division of Historical Resources of the
491 Department of State.

492 d. Areas known to be important to animal species designated
493 as endangered or threatened ~~animal species~~ by the United States

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494 Fish and Wildlife Service or by the Fish and Wildlife
495 Conservation Commission, for reproduction, feeding, or nesting;
496 for traveling between such areas used for reproduction, feeding,
497 or nesting; or for escape from predation.

498 e. Areas known to contain plant species designated as
499 endangered ~~plant species~~ by the Department of Agriculture and
500 Consumer Services.

501 2. Produce, or dispose of, no substances designated as
502 hazardous or toxic substances by the United States Environmental
503 Protection Agency, ~~or by~~ the Department of Environmental
504 Protection, or the Department of Agriculture and Consumer
505 Services. This subparagraph does ~~is not intended to~~ apply to the
506 production of these substances in nonsignificant amounts as
507 would occur through household use or incidental use by
508 businesses.

509 3. Participate in a downtown reuse or redevelopment program
510 to improve and rehabilitate a declining downtown area.

511 4. Incorporate no dredge and fill activities in, and no
512 stormwater discharge into, waters designated as Class II,
513 aquatic preserves, or Outstanding Florida Waters, except as
514 ~~activities in those waters are~~ permitted pursuant to s.
515 403.813(2), and the developer demonstrates that those activities
516 meet the standards under Class II waters, Outstanding Florida
517 Waters, or aquatic preserves, as applicable.

518 5. Include open space, recreation areas, Florida-friendly
519 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy
520 conservation and minimize impermeable surfaces as appropriate to
521 the location and type of project.

522 6. Provide for construction and maintenance of all onsite

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523 infrastructure necessary to support the project and enter into a
524 binding commitment with local government to provide an
525 appropriate fair-share contribution toward the offsite impacts
526 that ~~which~~ the development will impose on publicly funded
527 facilities and services, except offsite transportation, and
528 condition or phase the commencement of development to ensure
529 that public facilities and services, except offsite
530 transportation, are ~~will be~~ available concurrent with the
531 impacts of the development. For the purposes of offsite
532 transportation impacts, the developer shall comply, at a
533 minimum, with the standards of the state land planning agency's
534 development-of-regional-impact transportation rule, the approved
535 strategic regional policy plan, any applicable regional planning
536 council transportation rule, and the approved local government
537 comprehensive plan and land development regulations adopted
538 pursuant to part II of chapter 163.

539 7. Design and construct the development in a manner that is
540 consistent with the adopted state plan, the applicable strategic
541 regional policy plan, and the applicable adopted local
542 government comprehensive plan.

543 Section 11. Subsection (3) of section 388.291, Florida
544 Statutes, is amended to read:

545 388.291 Source reduction measures; supervision by
546 department.—

547 (3) Property owners in a developed residential area shall
548 ~~are required to~~ maintain their property in ~~such~~ a manner that
549 does so as ~~to~~ not create or maintain any standing freshwater
550 condition capable of breeding mosquitoes or other arthropods in
551 significant numbers so as to constitute a public health,

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552 welfare, or nuisance problem. ~~Nothing in~~ This subsection does
553 not authorize ~~shall permit~~ the alteration of permitted
554 stormwater management systems or prohibit maintained fish ponds,
555 Florida-friendly landscaping ~~xeriscaping~~, or other maintained
556 systems of landscaping or vegetation. If such a condition is
557 found to exist, the local arthropod control agency shall serve
558 notice on the property owner to treat, remove, or abate the
559 condition. Such notice is ~~shall serve as~~ prima facie evidence of
560 maintaining a nuisance, and upon failure of the property owner
561 to treat, remove, or abate the condition, the local arthropod
562 control agency or any affected citizen may proceed pursuant to
563 s. 60.05 to enjoin the nuisance and may recover costs and
564 attorney's fees if they prevail in the action.

565 Section 12. Subsection (6) of section 481.303, Florida
566 Statutes, is amended to read:

567 481.303 Definitions.—As used in this chapter:

568 (6) "Landscape architecture" means professional services,
569 including, but not limited to, the following:

570 (a) Consultation, investigation, research, planning,
571 design, preparation of drawings, specifications, contract
572 documents and reports, responsible construction supervision, or
573 landscape management in connection with the planning and
574 development of land and incidental water areas, including the
575 use of Florida-friendly landscaping ~~xeriscape~~ as defined in s.
576 373.185, where, and to the extent that, the dominant purpose of
577 such services or creative works is the preservation,
578 conservation, enhancement, or determination of proper land uses,
579 natural land features, ground cover and plantings, or
580 naturalistic and aesthetic values;

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581 (b) The determination of settings, grounds, and approaches
582 for and the siting of buildings and structures, outdoor areas,
583 or other improvements;

584 (c) The setting of grades, shaping and contouring of land
585 and water forms, determination of drainage, and provision for
586 storm drainage and irrigation systems where such systems are
587 necessary to the purposes outlined herein; and

588 (d) The design of such tangible objects and features as are
589 necessary to the purpose outlined herein.

590 Section 13. Subsection (4) of section 720.3075, Florida
591 Statutes, is amended to read:

592 720.3075 Prohibited clauses in association documents.—

593 (4) (a) The Legislature finds that the use of Florida-
594 friendly landscaping and other water use and pollution
595 prevention measures to conserve or protect the state's water
596 resources serves a compelling public interest and that the
597 participation of homeowners' associations and local governments
598 is essential to the state's efforts in water conservation and
599 water quality protection and restoration.

600 (b) Homeowners' association documents, including
601 declarations of covenants, articles of incorporation, or bylaws,
602 ~~entered after October 1, 2001,~~ may not prohibit or be enforced
603 so as to prohibit any property owner from implementing Xeriscape
604 ~~or Florida-friendly landscaping landscape,~~ as defined in s.
605 373.185(1), on his or her land or create any requirement or
606 limitation in conflict with any provision of part II of chapter
607 373 or a water shortage order, other order, consumptive use
608 permit, or rule adopted or issued pursuant to part II of chapter
609 373.

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Section 14. This act shall take effect July 1, 2009.