

By Senator Haridopolos

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1                                   A bill to be entitled  
2       An act relating to arboriculture; creating ch. 598,  
3       F.S.; providing a short title; providing a purpose  
4       statement; providing definitions; providing  
5       exceptions; providing powers and duties of the  
6       Department of Agriculture and Consumer Services;  
7       providing rulemaking authority; establishing a maximum  
8       annual fee for licensure; providing for deposit and  
9       use of fee proceeds; establishing licensure procedures  
10      and requirements to practice arboriculture and provide  
11      arboriculture services; providing for issuance of a  
12      license; providing grounds for denial of a license or  
13      refusal to renew a license; providing for license  
14      suspension or revocation; providing for license  
15      renewal; providing for reactivation of a license under  
16      certain conditions; providing for issuance of a  
17      duplicate license under certain circumstances;  
18      requiring a roster of licensed arborists; amending s.  
19      604.15, F.S.; revising a definition to make tropical  
20      foliage exempt from regulation under provisions  
21      relating to dealers in agricultural products;  
22      providing an appropriation; providing an effective  
23      date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

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27       Section 1. Chapter 598, Florida Statutes, consisting of  
28      sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006,  
29      598.007, 598.008, 598.009, and 598.011, is created to read:

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## CHAPTER 598

ARBORICULTURE

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

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

598.003 Definitions.—As used in this chapter:

(1) “Arboriculture” or “arboriculture services” means:

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

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59 or property.

60 (b) A service performed in connection with post-storm  
61 cleanup of damage from hurricanes, tropical storms, and other  
62 storm events that involves substantial work hours. A post-storm  
63 cleanup service includes, but is not limited to, storm damage  
64 resulting in downed, damaged, or uprooted trees, or parts of  
65 trees, of substantial size and weight in excess of 50 pounds  
66 that threaten the structural integrity of residential or  
67 commercial structures; involve any type of power lines; impede  
68 traffic on streets, driveways, and other vehicular access roads;  
69 require extensive use of compression or chain saws; and involve  
70 any related skilled service.

71 (c) A landscape architect licensed under part II of chapter  
72 481 is authorized to practice arboriculture; however, as  
73 provided in s. 598.006(4), only a person licensed under this  
74 chapter may hold herself or himself out as a state-licensed  
75 arborist.

76 (d) To prevent injury to life or property after a disaster,  
77 state emergency response team members designated under the state  
78 comprehensive emergency management plan pursuant to chapter 252  
79 are authorized to provide and conduct charitable arboriculture  
80 services and to train volunteers to provide such services;  
81 however, as provided in s. 598.006(4), only a person licensed  
82 under this chapter may hold herself or himself out as a state-  
83 licensed arborist.

84 (2) "Arborist of record" means a Florida-licensed arborist  
85 in good standing who is employed by or contracting with a firm,  
86 corporation, partnership, employer, or person; who supervises  
87 employees providing arboriculture services; and who issues

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88 authorization cards to persons performing services under her or  
89 his supervision.

90 (3) "Department" means the Department of Agriculture and  
91 Consumer Services.

92 (4) "Landscape tree maintenance" means maintenance  
93 performed when standing on the ground or when performed on trees  
94 less than 4 inches in diameter at breast height as referenced in  
95 the Guide to Plant Appraisal.

96 (5) "Licensed arborist" means a person who has fulfilled  
97 the International Society of Arboriculture requirements for  
98 arborist certification or for certification as a Board Certified  
99 Master Arborist, whose certification is current, and who meets  
100 the requirements of s. 598.006.

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

102 (7) "Practice of arboriculture" means the performance of,  
103 or offer to perform, an arboriculture service, including, but  
104 not limited to, a written or oral report, consultation,  
105 investigation, evaluation, or planning, relating to  
106 arboriculture, excluding landscape tree maintenance as defined  
107 in this section and as otherwise excluded by this chapter. A  
108 person shall be construed to be engaged in the practice of  
109 arboriculture if she or he:

110 (a) By verbal claim, sign, advertisement, letterhead, card,  
111 or any other means represents herself or himself to be an  
112 arborist;

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

115 (c) Holds herself or himself out as able to perform or does  
116 perform any arboriculture services or work recognized as an

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117 arborist.

118 598.004 Powers and duties of the Department of Agriculture  
119 and Consumer Services; rulemaking.—The department shall have all  
120 powers and duties necessary to implement the provisions of this  
121 chapter, including, but not limited to, the authority to adopt  
122 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
123 following:

124 (1) Organizational and operational guidance regarding the  
125 practice of arboriculture, arborists of record, and the  
126 requirements of the law regarding licensed arborists.

127 (2) Licensure process, including, but not limited to,  
128 requirements and procedures for licensure; insurance  
129 requirements and standards of the International Society of  
130 Arboriculture for licensed arborists; authorization cards;  
131 annual license renewal; language relating to licensure that may  
132 be used by licensed arborists for public information; duplicate  
133 licenses; lost, destroyed, or mutilated licenses; and inactive  
134 and reactivated licenses.

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

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

138 598.005 Fees.—

139 (1) The department shall by rule set fees as provided in  
140 this section. The amount of the fees shall not exceed the cost  
141 of the implementing, reviewing, or administrative processing of  
142 the particular activity or process. Licensure fees are  
143 nonrefundable and shall not exceed \$300 annually.

144 (2) Fees collected under this chapter shall be deposited  
145 into the Incidental Trust Fund of the Division of Forestry of

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146 the department and shall be used to defray expenses in the  
 147 administration of this chapter.

148 598.006 Licensure procedures and requirements; issuance of  
 149 licenses.-

150 (1) Each applicant for licensure shall:

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

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

158 (c) Disclose any information related to the provisions of  
 159 subsection (2);

160 (d) Submit evidence of current certification by the  
 161 International Society of Arboriculture as a Certified Arborist  
 162 or as a Board Certified Master Arborist;

163 (e) Provide proof of liability, required workers'  
 164 compensation, and errors and omissions insurance; however, an  
 165 applicant employed by a statutorily recognized governmental  
 166 entity shall not be required to carry errors and omissions  
 167 insurance or liability insurance if the entity is self-insured.  
 168 Within 30 days after the termination of the person's employment  
 169 with the governmental entity, the person shall fully comply with  
 170 the requirements of this subsection; and

171 (f) Submit a signed statement that the applicant will  
 172 comply with arboriculture industry standards, including, but not  
 173 limited to, the national standards for tree operations and  
 174 safety approved by the American National Standards Institute,

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175 the standards of the International Society of Arboriculture, and  
176 best management practices adopted by rule by the department.

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

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

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

184 (c) Has not satisfied a civil fine or penalty arising out  
185 of any administrative or enforcement action brought by any  
186 governmental agency or private person based upon conduct  
187 involving fraud, dishonest dealing, or any violation of this  
188 act;

189 (d) Has pending against her or him any criminal,  
190 administrative, or enforcement proceedings in any jurisdiction,  
191 based upon conduct involving fraud, dishonest dealing, or any  
192 other act of moral turpitude; or

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

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

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

202 (5) All final arboriculture papers or documents involving  
203 the practice of the profession of arboriculture under the

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204 supervision of a Florida-licensed arborist of record that have  
205 been prepared or approved for use by a firm, corporation,  
206 partnership, or person, for delivery to any person for public  
207 record within the state, shall be dated and bear the signature  
208 and seal of the Florida-licensed arborist of record who  
209 prepared, supervised, or approved the documents and who was  
210 responsible for the supervision of persons performing  
211 arboricultural services.

212 598.007 Renewal of licenses; notice of address of primary  
213 place of business.—

214 (1) The department shall renew a license upon receipt of  
215 satisfactory evidence that the applicant's International Society  
216 of Arboriculture certification is current and that the applicant  
217 is otherwise in compliance with this chapter and department  
218 rules.

219 (2) The licensed arborist must have on file with the  
220 department the address of her or his primary place of practice.  
221 Within 30 days after changing the address of her or his primary  
222 place of practice, the licensed arborist must notify the  
223 department of the address of the new primary place of practice.

224 598.008 Inactive licenses; reactivated licenses; suspended  
225 or revoked licenses.—A licensed arborist whose license has  
226 become inactive, suspended, or revoked shall have her or his  
227 license reactivated only upon written request to the department  
228 and approval by the department to reactivate the license.

229 598.009 Lost, destroyed, stolen, or mutilated licenses.—A  
230 duplicate license for a licensed arborist may be issued to  
231 replace a license that has been lost, destroyed, stolen, or  
232 mutilated, subject to rules of the department. Licenses issued



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

234 598.011 Roster of licensed arborists.—The department shall  
235 maintain a roster showing the names and places of business of  
236 all licensed arborists in the state, based on requests for  
237 licensure.

238 Section 2. Subsection (1) of section 604.15, Florida  
239 Statutes, is amended to read:

240 604.15 Dealers in agricultural products; definitions.—For  
241 the purpose of ss. 604.15-604.34, the following words and terms,  
242 when used, shall be construed to mean:

243 (1) "Agricultural products" means the natural products of  
244 the farm, nursery, grove, orchard, vineyard, garden, and apiary  
245 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;  
246 livestock; milk and milk products; poultry and poultry products;  
247 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*  
248 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety  
249 Persian, Tahiti, Bearss, or Florida Key limes); and any other  
250 nonexempt agricultural products produced in the state, except  
251 tobacco, sugarcane, tropical foliage, timber and timber  
252 byproducts, forest products as defined in s. 591.17, and citrus  
253 other than limes.

254 Section 3. There is hereby appropriated to the Department  
255 of Agriculture and Consumer Services one position and associated  
256 rate and expenses of \$72,280 from the Incidental Trust Fund in  
257 order to carry out the provisions of section 1 of this act.

258 Section 4. This act shall take effect July 1, 2009.