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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; authorizing
19 the department to enforce certain provisions of state
20 law by specified means; amending s. 604.15, F.S.;
21 revising a definition to make tropical foliage exempt
22 from regulation under provisions relating to dealers
23 in agricultural products; providing an appropriation;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

28 Section 1. Chapter 598, Florida Statutes, consisting of
29 sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006,

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30 598.007, 598.008, 598.009, 598.011, and 598.012, is created to
31 read:

32 CHAPTER 598

33 ARBORICULTURE

34 598.001 Short title.—This chapter may be cited as the
35 “Florida Arborist Licensing Law.”

36 598.002 Purpose.—It is declared to be the public policy of
37 the state that, in order to safeguard life, health, and
38 property; the mitigation of property insurance; the cleanup of
39 damage from hurricanes, tropical storms, and other severe storm
40 events; and the public well-being of its citizens, any person
41 practicing or offering to practice arboriculture in this state
42 as a licensed arborist shall meet the requirements of this
43 chapter.

44 598.003 Definitions.—As used in this chapter:

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

46 (a) Any tree service, including, but not limited to, a
47 written or oral report, a recommendation, an opinion, or a
48 consultation done for compensation relating to the improvement
49 of the condition of shade, ornamental, palm, or fruit trees by
50 fertilizing, pruning, trimming, bracing, or other methods of
51 improving, diagnosing, or protecting such trees from tree pests,
52 excluding activities regulated under chapter 482 and the
53 activities of a nursery as defined in s. 581.011(20) and (22),
54 or diagnosing or protecting such trees from tree diseases and
55 abiotic agents, or curing or repairing any damage to such trees,
56 including, but not limited to, pruning, removal, preservation,
57 repair, cabling and bracing, lightning protection, root pruning,
58 root excavation, tree assessments, tree maintenance and care,

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59 trimming, cutting, sawing, or removal of trees that have been
60 damaged to such an extent as to cause or threaten injury to life
61 or property.

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

73 (c) This chapter does not:

74 1. Prohibit any person from practicing arboriculture or
75 providing arboriculture services as defined in this chapter if
76 such person does not hold himself or herself out as a state-
77 licensed arborist unless he or she is licensed in compliance
78 with this chapter.

79 2. Require any person to be a member of the International
80 Society of Arboriculture in order to be licensed under this
81 chapter.

82 (d) A landscape architect licensed under part II of chapter
83 481 is authorized to practice arboriculture; however, as
84 provided in s. 598.006(4), only a person licensed under this
85 chapter may hold herself or himself out as a state-licensed
86 arborist.

87 (e) To prevent injury to life or property after a disaster,

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88 state emergency response team members designated under the state
89 comprehensive emergency management plan pursuant to chapter 252
90 are authorized to provide and conduct charitable arboriculture
91 services and to train volunteers to provide such services;
92 however, as provided in s. 598.006(4), only a person licensed
93 under this chapter may hold herself or himself out as a state-
94 licensed arborist.

95 (2) "Arborist of record" means a Florida-licensed arborist
96 in good standing who is employed by or contracting with a firm,
97 corporation, partnership, employer, or person; who supervises
98 employees providing arboriculture services; and who issues
99 authorization cards to persons performing services under her or
100 his supervision.

101 (3) "Department" means the Department of Agriculture and
102 Consumer Services.

103 (4) "Landscape tree maintenance" means maintenance
104 performed when standing on the ground or when performed on trees
105 less than 4 inches in diameter at breast height as referenced in
106 the Guide to Plant Appraisal.

107 (5) "Licensed arborist" means a person who has fulfilled
108 the International Society of Arboriculture requirements for
109 arborist certification or for certification as a Board Certified
110 Master Arborist, whose certification is current, and who meets
111 the requirements of s. 598.006.

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

113 (7) "Practice of arboriculture" means the performance of,
114 or offer to perform, an arboriculture service, including, but
115 not limited to, a written or oral report, consultation,
116 investigation, evaluation, or planning, relating to

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117 arboriculture, excluding landscape tree maintenance as defined
118 in this section and as otherwise excluded by this chapter. A
119 person shall be construed to be engaged in the practice of
120 arboriculture if she or he:

121 (a) By verbal claim, sign, advertisement, letterhead, card,
122 or any other means represents herself or himself to be an
123 arborist;

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

126 (c) Holds herself or himself out as able to perform or does
127 perform any arboriculture services or work recognized as an
128 arborist.

129 598.004 Powers and duties of the Department of Agriculture
130 and Consumer Services; rulemaking.—The department shall have all
131 powers and duties necessary to implement the provisions of this
132 chapter, including, but not limited to, the authority to adopt
133 rules pursuant to ss. 120.536(1) and 120.54 to implement the
134 following:

135 (1) Organizational and operational guidance regarding the
136 practice of arboriculture, arborists of record, and the
137 requirements of the law regarding licensed arborists.

138 (2) Licensure process, including, but not limited to,
139 requirements and procedures for licensure; insurance
140 requirements and standards of the International Society of
141 Arboriculture for licensed arborists; authorization cards;
142 annual license renewal; language relating to licensure that may
143 be used by licensed arborists for public information; duplicate
144 licenses; lost, destroyed, or mutilated licenses; and inactive
145 and reactivated licenses.

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

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

149 598.005 Fees.—

150 (1) The department shall by rule set fees as provided in
151 this section. The amount of the fees shall not exceed the cost
152 of the implementing, reviewing, or administrative processing of
153 the particular activity or process. Licensure fees are
154 nonrefundable and shall not exceed \$300 annually.

155 (2) Fees collected under this chapter shall be deposited
156 into the Incidental Trust Fund of the Division of Forestry of
157 the department and shall be used to defray expenses in the
158 administration of this chapter.

159 598.006 Licensure procedures and requirements; issuance of
160 licenses.—

161 (1) Each applicant for licensure shall:

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

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

169 (c) Disclose any information related to the provisions of
170 subsection (2);

171 (d) Submit evidence of current certification by the
172 International Society of Arboriculture as a Board Certified
173 Arborist or as a Board Certified Master Arborist;

174 (e) Provide proof of liability, required workers'

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175 compensation, and errors and omissions insurance; however, an
176 applicant employed by a statutorily recognized governmental
177 entity shall not be required to carry errors and omissions
178 insurance or liability insurance if the entity is self-insured.
179 Within 30 days after the termination of the person's employment
180 with the governmental entity, the person shall fully comply with
181 the requirements of this subsection; and

182 (f) Submit a signed statement that the applicant will
183 comply with arboriculture industry standards, including, but not
184 limited to, the national standards for tree operations and
185 safety approved by the American National Standards Institute,
186 the standards of the International Society of Arboriculture, and
187 best management practices adopted by rule by the department.

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

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

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

195 (c) Has not satisfied a civil fine or penalty arising out
196 of any administrative or enforcement action brought by any
197 governmental agency or private person based upon conduct
198 involving fraud, dishonest dealing, or any violation of this
199 act;

200 (d) Has pending against her or him any criminal,
201 administrative, or enforcement proceedings in any jurisdiction,
202 based upon conduct involving fraud, dishonest dealing, or any
203 other act of moral turpitude; or

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

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

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

213 (5) All final arboriculture papers or documents involving
214 the practice of the profession of arboriculture under the
215 supervision of a Florida-licensed arborist of record that have
216 been prepared or approved for use by a firm, corporation,
217 partnership, or person, for delivery to any person for public
218 record within the state, shall be dated and bear the signature
219 and seal of the Florida-licensed arborist of record who
220 prepared, supervised, or approved the documents and who was
221 responsible for the supervision of persons performing
222 arboricultural services.

223 598.007 Renewal of licenses; notice of address of primary
224 place of business.-

225 (1) The department shall renew a license upon receipt of
226 satisfactory evidence that the applicant's International Society
227 of Arboriculture certification is current and that the applicant
228 is otherwise in compliance with this chapter and department
229 rules.

230 (2) The licensed arborist must have on file with the
231 department the address of her or his primary place of practice.
232 Within 30 days after changing the address of her or his primary

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233 place of practice, the licensed arborist must notify the
234 department of the address of the new primary place of practice.

235 598.008 Inactive licenses; reactivated licenses; suspended
236 or revoked licenses.—A licensed arborist whose license has
237 become inactive, suspended, or revoked shall have her or his
238 license reactivated only upon written request to the department
239 and approval by the department to reactivate the license.

240 598.009 Lost, destroyed, stolen, or mutilated licenses.—A
241 duplicate license for a licensed arborist may be issued to
242 replace a license that has been lost, destroyed, stolen, or
243 mutilated, subject to rules of the department. Licenses issued
244 under this section shall be marked with the word "DUPLICATE."

245 598.011 Roster of licensed arborists.—The department shall
246 maintain a roster showing the names and places of business of
247 all licensed arborists in the state, based on requests for
248 licensure.

249 598.012 The department may enforce the provisions of this
250 chapter by the use of notices to desist, appropriate judicial
251 proceedings, or administrative proceedings under chapter 120.

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

254 604.15 Dealers in agricultural products; definitions.—For
255 the purpose of ss. 604.15-604.34, the following words and terms,
256 when used, shall be construed to mean:

257 (1) "Agricultural products" means the natural products of
258 the farm, nursery, grove, orchard, vineyard, garden, and apiary
259 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
260 livestock; milk and milk products; poultry and poultry products;
261 the fruit of the saw palmetto (meaning the fruit of the *Serenoa*

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262 *repens*); limes (meaning the fruit *Citrus aurantifolia*, variety
263 Persian, Tahiti, Bearss, or Florida Key limes); and any other
264 nonexempt agricultural products produced in the state, except
265 tobacco, sugarcane, tropical foliage, timber and timber
266 byproducts, forest products as defined in s. 591.17, and citrus
267 other than limes.

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

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