

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

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

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

24 403.121 Enforcement; procedure; remedies.--The department
 25 shall have the following judicial and administrative remedies
 26 available to it for violations of this chapter, as specified in
 27 s. 403.161(1).

28 (3) Except for violations involving hazardous wastes,

29 asbestos, or underground injection, administrative penalties
 30 must be calculated according to the following schedule:

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

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

43 403.9323 Legislative intent.--

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

52 Section 3. Present subsections (1) through (6) of section
 53 403.9324, Florida Statutes, are redesignated as subsections (2)
 54 through (7), respectively, a new subsection (1) is added to that
 55 section, and present subsections (1) and (4) of that section are
 56 amended, to read:

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57 | 403.9324 Mangrove protection rule; delegation of mangrove
58 | protection to local governments.--

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

63 | (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful
64 | regulations adopted in accordance with this section by a local
65 | government that receives a delegation of the department's
66 | authority to administer and enforce the regulation of mangroves
67 | as provided by this section shall be the sole regulations in
68 | this state for the trimming and alteration of mangroves on
69 | privately or publicly owned lands. All other state and local
70 | regulation of mangrove is as provided in subsection (4) ~~(3)~~.

71 | (5)~~(4)~~ Within 45 days after receipt of a written request
72 | for delegation from a local government, the department shall
73 | grant or deny the request in writing. The request is deemed
74 | approved if the department fails to respond within the 45-day
75 | ~~time~~ period. In reviewing requests for delegation, the
76 | department shall limit its review to whether the request
77 | complies with the requirements of subsection (3) ~~(2)~~. The
78 | department shall set forth in writing with specificity the
79 | reasons for denial of a request for delegation. The department's
80 | determination regarding delegation constitutes final agency
81 | action and is subject to review under chapter 120.

82 | Section 4. Subsection (5) of section 403.9329, Florida
83 | Statutes, is amended to read:

84 | 403.9329 Professional mangrove trimmers.--

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

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

91 403.9331 Applicability; rules and policies.--

92 (3) Pursuant to s. 403.9323(2), the provisions of ss.
93 403.9321-403.9333 do not allow the trimming of mangroves on
94 uninhabited islands that are publicly owned or on lands that are
95 set aside for conservation and preservation or mitigation,
96 except where necessary to protect the public health, safety, and
97 welfare or to enhance public use of, or access to, conservation
98 areas in accordance with approved management plans.

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