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1 A bill to be entitled
2 An act relating to docks; amending s. 258.42, F.S.;
3 authorizing the placement of roofs on certain
4 residential single-family docks; amending s. 403.061,
5 F.S.; authorizing the Department of Environmental
6 Protection to adopt rules that include special
7 criteria for approving certain docking facilities in
8 shellfish harvesting waters; deleting an obsolete
9 provision; authorizing the department to maintain a
10 list of projects or activities for applicants to
11 consider when developing proposals in order to meet
12 mitigation or public interest requirements; directing
13 the department to expand online self-certification for
14 certain exemptions and general permits and to report
15 on such activities to the Legislature; prohibiting
16 local governments from specifying the method or form
17 for documenting that a project meets specified
18 requirements; amending s. 403.813, F.S.; clarifying
19 provisions relating to permits issued at district
20 centers to authorize the use of different construction
21 materials or minor deviations when replacing or
22 repairing docks and piers; requiring the Office of
23 Program Policy Analysis and Government Accountability
24 to conduct a study and submit a report to the Board of
25 Trustees of the Internal Improvement Trust Fund and
26 the Legislature on the effects of regulation relating
27 to submerged lands on private, residential multifamily
28 docks or piers; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Paragraph (e) of subsection (3) of section
33 258.42, Florida Statutes, is amended to read:

34 258.42 Maintenance of preserves.—The Board of Trustees of
35 the Internal Improvement Trust Fund shall maintain such aquatic
36 preserves subject to the following provisions:

37 (3)

38 (e) ~~There shall be no erection of Structures~~ may not be
39 erected within the preserve, except:

40 1. Private residential docks may be approved for reasonable
41 ingress or egress of riparian owners. Slips at private
42 residential single-family docks which contain boat lifts or
43 davits that do not float in the water when loaded may not, in
44 whole or in part, be enclosed by walls, but may be roofed if the
45 roof does not overhang more than 1 foot beyond the footprint of
46 the lift and the boat stored at the lift. Such roofs are not
47 included in the square-footage calculation of a terminal
48 platform.

49 2. Private residential multislip docks may be approved if
50 located within a reasonable distance of a publicly maintained
51 navigation channel, or a natural channel of adequate depth and
52 width to allow operation of the watercraft for which the docking
53 facility is designed without the craft having an adverse impact
54 on marine resources. The distance shall be determined in
55 accordance with criteria established by the trustees by rule,
56 based on ~~a consideration of~~ the depth of the water, nature and
57 condition of bottom, and presence of manatees.

58 3. Commercial docking facilities shown to be consistent

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59 with the use or management criteria of the preserve may be
60 approved if the facilities are located within a reasonable
61 distance of a publicly maintained navigation channel, or a
62 natural channel of adequate depth and width to allow operation
63 of the watercraft for which the docking facility is designed
64 without the craft having an adverse impact on marine resources.
65 The distance shall be determined in accordance with criteria
66 established by the trustees by rule, based on ~~a consideration of~~
67 the depth of the water, nature and condition of bottom, and
68 presence of manatees.

69 4. Structures for shore protection, including restoration
70 of seawalls at their previous location or upland of or within 18
71 inches waterward of their previous location, approved
72 navigational aids, or public utility crossings authorized under
73 paragraph (a) may be approved.

74
75 A ~~No~~ structure under this paragraph or chapter 253 may not ~~shall~~
76 be prohibited solely because the local government fails to adopt
77 a marina plan or other policies dealing with the siting of such
78 structures in its local comprehensive plan.

79 Section 2. Subsection (29) of section 403.061, Florida
80 Statutes, is amended, present subsection (40) is renumbered as
81 section (42), and new subsections (40) and (41) are added to
82 that section, to read:

83 403.061 Department; powers and duties.—The department shall
84 have the power and the duty to control and prohibit pollution of
85 air and water in accordance with the law and rules adopted and
86 promulgated by it and, for this purpose, to:

87 (29) Adopt by rule special criteria to protect Class II and

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88 Class III shellfish harvesting waters. Such rules may include
89 special criteria for approving docking facilities that have 10
90 or fewer slips if the construction and operation of such
91 facilities will not result in the closure of shellfish waters.
92 ~~Rules previously adopted by the department in rule 17-~~
93 ~~4.28(8)(a), Florida Administrative Code, are hereby ratified and~~
94 ~~determined to be a valid exercise of delegated legislative~~
95 ~~authority and shall remain in effect unless amended by the~~
96 ~~Environmental Regulation Commission.~~

97 (40) Maintain a list of projects or activities, including
98 mitigation banks, which applicants may consider when developing
99 proposals in order to meet the mitigation or public interest
100 requirements of this chapter, chapter 253, or chapter 373. The
101 contents of such list are not a rule as defined in chapter 120,
102 and listing a specific project or activity does not imply
103 department approval for such project or activity. Each county
104 government is encouraged to develop an inventory of projects or
105 activities for inclusion on the list by obtaining input from
106 local stakeholders in the public, private, and nonprofit
107 sectors, including local governments, port authorities, marine
108 contractors, other representatives of the marine construction
109 industry, environmental or conservation organizations, and other
110 interested parties. A county may establish dedicated trust funds
111 for depositing public interest donations to be used for future
112 public interest projects, including improving on-water law
113 enforcement capabilities.

114 (41) Expand the use of online self-certification and other
115 forms of online authorization for appropriate exemptions,
116 general permits, and individual permits by the department and

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117 the water management districts if such expansion is economically
118 feasible. The department shall report on the progress of these
119 activities to the President of the Senate, the Speaker of the
120 House of Representatives, and the Legislative Committee on
121 Intergovernmental Relations by February 15, 2011.
122 Notwithstanding any other provision of law, a local government
123 may not specify the method or form for documenting that a
124 project meets the requirements for authorization under chapter
125 161, chapter 253, chapter 373, or this chapter. This includes
126 Internet-based department programs that provide for self-
127 certification.

128
129 The department shall implement such programs in conjunction with
130 its other powers and duties and shall place special emphasis on
131 reducing and eliminating contamination that presents a threat to
132 humans, animals or plants, or to the environment.

133 Section 3. Paragraph (d) of subsection (1) of section
134 403.813, Florida Statutes, is amended to read:

135 403.813 Permits issued at district centers; exceptions.—

136 (1) A permit is not required under this chapter, chapter
137 373, chapter 61-691, Laws of Florida, or chapter 25214 or
138 chapter 25270, 1949, Laws of Florida, for activities associated
139 with the following types of projects; however, except as
140 otherwise provided in this subsection, nothing in this
141 subsection relieves an applicant from any requirement to obtain
142 permission to use or occupy lands owned by the Board of Trustees
143 of the Internal Improvement Trust Fund or any water management
144 district in its governmental or proprietary capacity or from
145 complying with applicable local pollution control programs

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146 authorized under this chapter or other requirements of county
147 and municipal governments:

148 (d) The replacement or repair of existing docks and piers,
149 except that ~~no~~ fill material may not ~~is to~~ be used and ~~provided~~
150 ~~that~~ the replacement or repaired dock or pier must be ~~is~~ in the
151 same location and of the same configuration and dimensions as
152 the dock or pier being replaced or repaired. This does not
153 preclude the use of different construction materials or minor
154 deviations to allow upgrades to current structural and design
155 standards.

156 Section 4. The Office of Program Policy Analysis and
157 Government Accountability shall conduct a study and prepare a
158 report on the effects of rules relating to the state's sovereign
159 submerged lands on private, multifamily residential dwellings.
160 In conducting the study, the office shall solicit input and
161 information from relevant stakeholders, including such homeowner
162 organizations as the Florida Homeowners for Fair Treatment,
163 Inc., and the Space Coast Condominiums Association. The scope of
164 the study must include, but is not limited to, the practical
165 implementation effects of rules adopted pursuant to s.
166 253.03(11), ss. 253.67-253.75, and part II of chapter 258,
167 Florida Statutes, on multifamily residential dwellings, the
168 current sales tax being levied on the sale of boat slips
169 associated with such dwellings, the basis of the 5-year renewal
170 fee, and the annual income-reporting requirements for nonincome-
171 generating private, residential multifamily docks or piers. The
172 report must be submitted to the Board of Trustees of the
173 Internal Improvement Trust Fund, the President of the Senate,
174 and the Speaker of the House of Representatives by October 1,

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175 2010.

176 Section 5. This act shall take effect July 1, 2010.