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CS/HB 1159

2019 Legislature

1
2 An act relating to private property rights; creating
3 s. 163.045, F.S.; prohibiting local governments from
4 requiring notices, applications, approvals, permits,
5 fees, or mitigation for the pruning, trimming, or
6 removal of trees on residential property if a property
7 owner obtains specified documentation; prohibiting
8 local governments from requiring property owners to
9 replant such trees; providing an exception for
10 mangrove protection actions; amending s. 163.3209,
11 F.S.; deleting a provision that authorizes electric
12 utilities to perform certain right-of-way tree
13 maintenance only if a property owner has received
14 local government approval; creating s. 70.002, F.S.;
15 creating a Property Owner Bill of Rights; requiring
16 county property appraisers to provide specified
17 information on their websites; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 163.045, Florida Statutes, is created
23 to read:

24 163.045 Tree pruning, trimming, or removal on residential
25 property.-

ENROLLED

CS/HB 1159

2019 Legislature

26 (1) A local government may not require a notice,
27 application, approval, permit, fee, or mitigation for the
28 pruning, trimming, or removal of a tree on residential property
29 if the property owner obtains documentation from an arborist
30 certified by the International Society of Arboriculture or a
31 Florida licensed landscape architect that the tree presents a
32 danger to persons or property.

33 (2) A local government may not require a property owner to
34 replant a tree that was pruned, trimmed, or removed in
35 accordance with this section.

36 (3) This section does not apply to the exercise of
37 specifically delegated authority for mangrove protection
38 pursuant to ss. 403.9321-403.9333.

39 Section 2. Section 163.3209, Florida Statutes, is amended
40 to read:

41 163.3209 Electric transmission and distribution line
42 right-of-way maintenance.—After a right-of-way for any electric
43 transmission or distribution line has been established and
44 constructed, no local government shall require or apply any
45 permits or other approvals or code provisions for or related to
46 vegetation maintenance and tree pruning or trimming within the
47 established right-of-way. The term "vegetation maintenance and
48 tree pruning or trimming" means the mowing of vegetation within
49 the right-of-way, removal of trees or brush within the right-of-
50 way, and selective removal of tree branches that extend within

ENROLLED

CS/HB 1159

2019 Legislature

51 the right-of-way. The provisions of this section do not include
52 the removal of trees outside the right-of-way, which may be
53 allowed in compliance with applicable local ordinances. Prior to
54 conducting scheduled routine vegetation maintenance and tree
55 pruning or trimming activities within an established right-of-
56 way, the utility shall provide the official designated by the
57 local government with a minimum of 5 business days' advance
58 notice. Such advance notice is not required for vegetation
59 maintenance and tree pruning or trimming required to restore
60 electric service or to avoid an imminent vegetation-caused
61 outage or when performed at the request of the property owner
62 adjacent to the right-of-way, ~~provided that the owner has~~
63 ~~approval of the local government, if needed.~~ Upon the request of
64 the local government, the electric utility shall meet with the
65 local government to discuss and submit the utility's vegetation
66 maintenance plan, including the utility's trimming
67 specifications and maintenance practices. Vegetation maintenance
68 and tree pruning or trimming conducted by utilities shall
69 conform to ANSI A300 (Part I)-2001 pruning standards and ANSI
70 Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees,
71 and Cutting Brush-Safety Requirements. Vegetation maintenance
72 and tree pruning or trimming conducted by utilities must be
73 supervised by qualified electric utility personnel or licensed
74 contractors trained to conduct vegetation maintenance and tree
75 trimming or pruning consistent with this section or by Certified

ENROLLED

CS/HB 1159

2019 Legislature

76 | Arborists certified by the Certification Program of the
 77 | International Society of Arboriculture. A local government shall
 78 | not adopt an ordinance or land development regulation that
 79 | requires the planting of a tree or other vegetation that will
 80 | achieve a height greater than 14 feet in an established electric
 81 | utility right-of-way or intrude from the side closer than the
 82 | clearance distance specified in Table 2 of ANSI Z133.1-2000 for
 83 | lines affected by the North American Electric Reliability
 84 | Council Standard, FAC 003.1 requirement R1.2. This section does
 85 | not supersede or nullify the terms of specific franchise
 86 | agreements between an electric utility and a local government
 87 | and shall not be construed to limit a local government's
 88 | franchising authority. This section does not supersede local
 89 | government ordinances or regulations governing planting,
 90 | pruning, trimming, or removal of specimen trees or historical
 91 | trees, as defined in a local government's ordinances or
 92 | regulations, or trees within designated canopied protection
 93 | areas. This section shall not apply if a local government
 94 | develops, with input from the utility, and the local government
 95 | adopts, a written plan specifically for vegetation maintenance,
 96 | tree pruning, tree removal, and tree trimming by the utility
 97 | within the local government's established rights-of-way and the
 98 | plan is not inconsistent with the minimum requirements of the
 99 | National Electrical Safety Code as adopted by the Public Service
 100 | Commission; provided, however, such a plan shall not require the

ENROLLED

CS/HB 1159

2019 Legislature

planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric right-of-way. Vegetation maintenance costs shall be considered recoverable costs.

Section 3. Section 70.002, Florida Statutes, is created to read:

70.002 Property Owner Bill of Rights.-Each county property appraiser office shall provide on its website a Property Owner Bill of Rights. The purpose of the bill of rights is to identify certain existing rights afforded to property owners but is not a comprehensive guide. The Property Owner Bill of Rights does not create a civil cause of action. The Property Owner Bill of Rights must state:

PROPERTY OWNER

BILL OF RIGHTS

This Bill of Rights does not represent all of your rights under Florida law regarding your property and should not be viewed as a comprehensive guide to property rights. This document does not create a civil cause of action and neither expands nor limits any rights or remedies provided under any other law. This document does not replace the need to seek legal advice in matters relating to property law. Laws relating to your rights are found in the State Constitution, Florida Statutes, local ordinances, and court decisions. Your rights and protections

ENROLLED

CS/HB 1159

2019 Legislature

126 include:
 127 1. The right to acquire, possess, and protect your
 128 property.
 129 2. The right to use and enjoy your property.
 130 3. The right to exclude others from your property.
 131 4. The right to dispose of your property.
 132 5. The right to due process.
 133 6. The right to just compensation for property taken for a
 134 public purpose.
 135 7. The right to relief, or payment of compensation, when a
 136 new law, rule, regulation, or ordinance of the state or a
 137 political entity unfairly affects your property.
 138 Section 4. This act shall take effect July 1, 2019.