

## CHAPTER 2010-208

### Committee Substitute for Senate Bill No. 1118

An act relating to docks; amending s. 258.42, F.S.; authorizing the placement of roofs on certain residential single-family docks; amending s. 403.061, F.S.; authorizing the Department of Environmental Protection to adopt rules that include special criteria for approving certain docking facilities in shellfish harvesting waters; deleting an obsolete provision; authorizing the department to maintain a list of projects or activities for applicants to consider when developing proposals in order to meet mitigation or public interest requirements; directing the department to expand online self-certification for certain exemptions and general permits and to report on such activities to the Legislature; prohibiting local governments from specifying the method or form for documenting that a project meets specified requirements; amending s. 403.813, F.S.; clarifying provisions relating to permits issued at district centers to authorize the use of different construction materials or minor deviations when replacing or repairing docks and piers; providing an effective date.

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

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

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

(3)

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

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

2. Private residential multislip docks may be approved if located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on a

~~consideration of the depth of the water, nature and condition of bottom, and presence of manatees.~~

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

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

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

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

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

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

(40) Maintain a list of projects or activities, including mitigation banks, which applicants may consider when developing proposals in order to meet the mitigation or public interest requirements of this chapter, chapter 253, or chapter 373. The contents of such list are not a rule as defined in chapter 120, and listing a specific project or activity does not imply department approval for such project or activity. Each county government is encouraged to develop an inventory of projects or activities for inclusion on the list by obtaining input from local stakeholders in the public, private, and nonprofit sectors, including local governments, port authorities, marine contractors, other

representatives of the marine construction industry, environmental or conservation organizations, and other interested parties. A county may establish dedicated trust funds for depositing public interest donations to be used for future public interest projects, including improving on-water law enforcement capabilities.

(41) Expand the use of online self-certification and other forms of online authorization for appropriate exemptions, general permits, and individual permits by the department and the water management districts if such expansion is economically feasible. The department shall report on the progress of these activities to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Committee on Intergovernmental Relations by February 15, 2011. Notwithstanding any other provision of law, a local government may not specify the method or form for documenting that a project meets the requirements for authorization under chapter 161, chapter 253, chapter 373, or this chapter. This includes Internet-based department programs that provide for self-certification.

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

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

403.813 Permits issued at district centers; exceptions.—

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

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

Section 4. This act shall take effect July 1, 2010.

Approved by the Governor June 4, 2010.

Filed in Office Secretary of State June 4, 2010.