

By the Committee on Community Affairs; and Senator Albritton

578-03809-19

20191400c1

1 A bill to be entitled
2 An act relating to private property rights; amending
3 s. 163.3209, F.S.; deleting a provision that
4 authorizes electric utilities to perform certain
5 right-of-way tree maintenance only if a property owner
6 has received local government approval; creating s.
7 163.3214, F.S.; prohibiting certain local government
8 ordinances or regulations from requiring a permit,
9 application, notice, fee, or fine for certain
10 activities regarding trees on residential property;
11 prohibiting a local government from authorizing the
12 removal of certain trees during a specified time
13 period; authorizing a local government to enforce
14 ordinances or regulations pertaining to the replanting
15 of trees under certain circumstances; providing
16 applicability; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 163.3209, Florida Statutes, is amended
21 to read:

22 163.3209 Electric transmission and distribution line right-
23 of-way maintenance.—After a right-of-way for any electric
24 transmission or distribution line has been established and
25 constructed, no local government shall require or apply any
26 permits or other approvals or code provisions for or related to
27 vegetation maintenance and tree pruning or trimming within the
28 established right-of-way. The term "vegetation maintenance and
29 tree pruning or trimming" means the mowing of vegetation within

578-03809-19

20191400c1

30 the right-of-way, removal of trees or brush within the right-of-
31 way, and selective removal of tree branches that extend within
32 the right-of-way. The provisions of this section do not include
33 the removal of trees outside the right-of-way, which may be
34 allowed in compliance with applicable local ordinances. Prior to
35 conducting scheduled routine vegetation maintenance and tree
36 pruning or trimming activities within an established right-of-
37 way, the utility shall provide the official designated by the
38 local government with a minimum of 5 business days' advance
39 notice. Such advance notice is not required for vegetation
40 maintenance and tree pruning or trimming required to restore
41 electric service or to avoid an imminent vegetation-caused
42 outage or when performed at the request of the property owner
43 adjacent to the right-of-way, ~~provided that the owner has~~
44 ~~approval of the local government, if needed.~~ Upon the request of
45 the local government, the electric utility shall meet with the
46 local government to discuss and submit the utility's vegetation
47 maintenance plan, including the utility's trimming
48 specifications and maintenance practices. Vegetation maintenance
49 and tree pruning or trimming conducted by utilities shall
50 conform to ANSI A300 (Part I)-2001 pruning standards and ANSI
51 Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees,
52 and Cutting Brush-Safety Requirements. Vegetation maintenance
53 and tree pruning or trimming conducted by utilities must be
54 supervised by qualified electric utility personnel or licensed
55 contractors trained to conduct vegetation maintenance and tree
56 trimming or pruning consistent with this section or by Certified
57 Arborists certified by the Certification Program of the
58 International Society of Arboriculture. A local government shall

578-03809-19

20191400c1

59 not adopt an ordinance or land development regulation that
60 requires the planting of a tree or other vegetation that will
61 achieve a height greater than 14 feet in an established electric
62 utility right-of-way or intrude from the side closer than the
63 clearance distance specified in Table 2 of ANSI Z133.1-2000 for
64 lines affected by the North American Electric Reliability
65 Council Standard, FAC 003.1 requirement R1.2. This section does
66 not supersede or nullify the terms of specific franchise
67 agreements between an electric utility and a local government
68 and shall not be construed to limit a local government's
69 franchising authority. This section does not supersede local
70 government ordinances or regulations governing planting,
71 pruning, trimming, or removal of specimen trees or historical
72 trees, as defined in a local government's ordinances or
73 regulations, or trees within designated canopied protection
74 areas. This section shall not apply if a local government
75 develops, with input from the utility, and the local government
76 adopts, a written plan specifically for vegetation maintenance,
77 tree pruning, tree removal, and tree trimming by the utility
78 within the local government's established rights-of-way and the
79 plan is not inconsistent with the minimum requirements of the
80 National Electrical Safety Code as adopted by the Public Service
81 Commission; provided, however, such a plan shall not require the
82 planting of a tree or other vegetation that will achieve a
83 height greater than 14 feet in an established electric right-of-
84 way. Vegetation maintenance costs shall be considered
85 recoverable costs.

86 Section 2. Section 163.3214, Florida Statutes, is created
87 to read:

578-03809-19

20191400c1

88 163.3214 Tree pruning, trimming, or removal on residential
89 property.-

90 (1) From March 1 through June 1 of the calendar year, a
91 local government may not do either of the following:

92 (a) If the property owner has obtained documentation from
93 an arborist certified by the International Society of
94 Arboriculture that the tree is a danger to persons or property
95 and the tree is not a listed endangered species, enforce an
96 ordinance or regulation governing the pruning or trimming of
97 specimen, heritage, or patriarch trees, as defined by local
98 ordinances or regulations, or the pruning, trimming, or removal
99 of other trees on residential property which requires a permit,
100 an application, the provision of notice, a fee, or a fine.

101 (b) Authorize the removal of specimen, heritage, or
102 patriarch trees, as defined by local ordinances or regulations.

103 (2) A local government may enforce ordinances or
104 regulations pertaining to the replanting of trees that have been
105 removed in accordance with this section.

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

109 Section 3. This act shall take effect July 1, 2019.