

HB 841

2022

1 A bill to be entitled
2 An act relating to residential property riparian
3 rights; amending s. 253.141, F.S.; requiring land
4 surveyors to give preference to using the
5 prolongation-of-property-line method to establish a
6 property owner's riparian rights along a channel under
7 certain circumstances; defining terms; providing
8 applicability; requiring courts to award reasonable
9 attorney fees and costs to a prevailing party in a
10 civil action under certain circumstances; reenacting
11 ss. 403.813(1)(s) and 403.9323(3), F.S., relating to
12 permits issued at district centers and legislative
13 intent in recognizing rights of riparian property
14 ownership, respectively, to incorporate the amendment
15 made to s. 253.141, F.S., in references thereto;
16 providing an effective date.

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

19
20 Section 1. Subsection (1) of section 253.141, Florida
21 Statutes, is amended to read:

22 253.141 Riparian rights defined; certain submerged bottoms
23 subject to private ownership.—

24 (1) (a) Riparian rights are those incident to land
25 bordering upon navigable waters. They are rights of ingress,

26 egress, boating, bathing, and fishing and such others as may be
27 or have been defined by law. Such rights are not of a
28 proprietary nature. They are rights inuring to the owner of the
29 riparian land but are not owned by him or her. They are
30 appurtenant to and are inseparable from the riparian land. The
31 land to which the owner holds title must extend to the ordinary
32 high watermark of the navigable water in order that riparian
33 rights may attach. Conveyance of title to or lease of the
34 riparian land entitles the grantee to the riparian rights
35 running therewith whether or not mentioned in the deed or lease
36 of the upland.

37 (b) When establishing the boundaries of a residential
38 property owner's riparian rights along a channel, for purposes
39 of the construction of docks, piers, marinas, moorings, pilings,
40 and other private improvements, land surveyors must give
41 preference to the prolongation-of-property-line method unless
42 doing so would result in inequitable apportionment of riparian
43 rights among property owners along the channel.

44 1. As used in this paragraph, the term:

45 a. "Channel" means the marked, buoyed, or artificially
46 dredged channel, if any, or if none, means a space equal to 20
47 percent of the average width of the river or stream at the point
48 concerned which furnishes uninterruptedly, through its course,
49 the deepest water at ordinary low water.

50 b. "Prolongation-of-property-line method" means

51 establishing the boundary of a property owner's riparian rights
52 by extending the owner's property line out into the waterbody at
53 the same angles at which they intersect the ordinary high
54 watermark.

55 2. This paragraph does not apply to littoral waters, such
56 as a lake, an ocean, or a gulf.

57 3. This paragraph applies only when establishing the
58 boundaries of riparian rights after July 1, 2022.

59 (c) In a civil action relating to the riparian rights of a
60 residential dock owner, when such rights are exercised with all
61 appropriate environmental and regulatory approvals and permits,
62 in which the defendant is the prevailing party, the court shall
63 award reasonable attorney fees and costs to the prevailing
64 party.

65 Section 2. For the purpose of incorporating the amendment
66 made by this act to section 253.141, Florida Statutes, in a
67 reference thereto, paragraph (s) of subsection (1) of section
68 403.813, Florida Statutes, is reenacted to read:

69 403.813 Permits issued at district centers; exceptions.—

70 (1) A permit is not required under this chapter, chapter
71 373, chapter 61-691, Laws of Florida, or chapter 25214 or
72 chapter 25270, 1949, Laws of Florida, and a local government may
73 not require a person claiming this exception to provide further
74 department verification, for activities associated with the
75 following types of projects; however, except as otherwise

76 | provided in this subsection, this subsection does not relieve an
 77 | applicant from any requirement to obtain permission to use or
 78 | occupy lands owned by the Board of Trustees of the Internal
 79 | Improvement Trust Fund or a water management district in its
 80 | governmental or proprietary capacity or from complying with
 81 | applicable local pollution control programs authorized under
 82 | this chapter or other requirements of county and municipal
 83 | governments:

84 | (s) The construction, installation, operation, or
 85 | maintenance of floating vessel platforms or floating boat lifts,
 86 | provided that such structures:

87 | 1. Float at all times in the water for the sole purpose of
 88 | supporting a vessel so that the vessel is out of the water when
 89 | not in use;

90 | 2. Are wholly contained within a boat slip previously
 91 | permitted under ss. 403.91-403.929, 1984 Supplement to the
 92 | Florida Statutes 1983, as amended, or part IV of chapter 373, or
 93 | do not exceed a combined total of 500 square feet, or 200 square
 94 | feet in an Outstanding Florida Water, when associated with a
 95 | dock that is exempt under this subsection or associated with a
 96 | permitted dock with no defined boat slip or attached to a
 97 | bulkhead on a parcel of land where there is no other docking
 98 | structure;

99 | 3. Are not used for any commercial purpose or for mooring
 100 | vessels that remain in the water when not in use, and do not

101 substantially impede the flow of water, create a navigational
 102 hazard, or unreasonably infringe upon the riparian rights of
 103 adjacent property owners, as defined in s. 253.141;

104 4. Are constructed and used so as to minimize adverse
 105 impacts to submerged lands, wetlands, shellfish areas, aquatic
 106 plant and animal species, and other biological communities,
 107 including locating such structures in areas where seagrasses are
 108 least dense adjacent to the dock or bulkhead; and

109 5. Are not constructed in areas specifically prohibited
 110 for boat mooring under conditions of a permit issued in
 111 accordance with ss. 403.91-403.929, 1984 Supplement to the
 112 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 113 other form of authorization issued by a local government.

114
 115 Structures that qualify for this exemption are relieved from any
 116 requirement to obtain permission to use or occupy lands owned by
 117 the Board of Trustees of the Internal Improvement Trust Fund
 118 and, with the exception of those structures attached to a
 119 bulkhead on a parcel of land where there is no docking
 120 structure, may not be subject to any more stringent permitting
 121 requirements, registration requirements, or other regulation by
 122 any local government. Local governments may require either
 123 permitting or one-time registration of floating vessel platforms
 124 to be attached to a bulkhead on a parcel of land where there is
 125 no other docking structure as necessary to ensure compliance

HB 841

2022

126 | with local ordinances, codes, or regulations. Local governments
127 | may require either permitting or one-time registration of all
128 | other floating vessel platforms as necessary to ensure
129 | compliance with the exemption criteria in this section; to
130 | ensure compliance with local ordinances, codes, or regulations
131 | relating to building or zoning, which are no more stringent than
132 | the exemption criteria in this section or address subjects other
133 | than subjects addressed by the exemption criteria in this
134 | section; and to ensure proper installation, maintenance, and
135 | precautionary or evacuation action following a tropical storm or
136 | hurricane watch of a floating vessel platform or floating boat
137 | lift that is proposed to be attached to a bulkhead or parcel of
138 | land where there is no other docking structure. The exemption
139 | provided in this paragraph shall be in addition to the exemption
140 | provided in paragraph (b). The department shall adopt a general
141 | permit by rule for the construction, installation, operation, or
142 | maintenance of those floating vessel platforms or floating boat
143 | lifts that do not qualify for the exemption provided in this
144 | paragraph but do not cause significant adverse impacts to occur
145 | individually or cumulatively. The issuance of such general
146 | permit shall also constitute permission to use or occupy lands
147 | owned by the Board of Trustees of the Internal Improvement Trust
148 | Fund. Local governments may not impose a more stringent
149 | regulation, permitting requirement, registration requirement, or
150 | other regulation covered by such general permit. Local

HB 841

2022

151 governments may require either permitting or one-time
152 registration of floating vessel platforms as necessary to ensure
153 compliance with the general permit in this section; to ensure
154 compliance with local ordinances, codes, or regulations relating
155 to building or zoning that are no more stringent than the
156 general permit in this section; and to ensure proper
157 installation and maintenance of a floating vessel platform or
158 floating boat lift that is proposed to be attached to a bulkhead
159 or parcel of land where there is no other docking structure.

160 Section 3. For the purpose of incorporating the amendment
161 made by this act to section 253.141, Florida Statutes, in a
162 reference thereto, subsection (3) of section 403.9323, Florida
163 Statutes, is reenacted to read:

164 403.9323 Legislative intent.—

165 (3) It is the intent of the Legislature to provide
166 waterfront property owners their riparian right of view, and
167 other rights of riparian property ownership as recognized by s.
168 253.141 and any other provision of law, by allowing mangrove
169 trimming in riparian mangrove fringes without prior government
170 approval when the trimming activities will not result in the
171 removal, defoliation, or destruction of the mangroves.

172 Section 4. This act shall take effect upon becoming a law.