

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1167 Tree Pruning, Trimming, or Removal on Residential Property

**SPONSOR(S):** Snyder

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1396

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Property Rights Subcommittee	12 Y, 4 N	Mawn	Jones
2) Local Administration & Veterans Affairs Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

To make the maintenance and removal of dead, dying, diseased, and overgrown trees easier for Florida residential property owners, s. 163.045, F.S., limits the ability of local governments to regulate tree maintenance, removal, and mitigation measures when a residential property owner acquires from a certified arborist or a Florida licensed landscape architect documentation that the tree presents a danger to persons or property. Specifically, when a residential property owner has such documentation, a local government may not require a:

- Notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on the owner's property.
- Property owner to replant a tree that was pruned, trimmed, or removed.

In 2019, a Tampa mobile home park owner felled 27 trees on his property after obtaining the requisite documentation from a properly-certified arborist. However, the City of Tampa subsequently fined the property owner and the tree-cutting firm whose arborist signed off on the tree removal \$420,000 each under a local tree removal ordinance, claiming that s. 163.045, F.S., does not apply to the mobile home park because such property is zoned as commercial, not residential, even though the park was divided up into residential mobile home lots. In October 2020, a Tampa code enforcement special magistrate agreed with the city's interpretation of the law, finding that the tree removal violated Tampa's tree removal ordinance and merited a reduced \$234,427.50 fine.

HB 1167 defines the term:

- "Residential property," as used in s. 163.045, F.S., to mean any residential real property, manufactured or modular home, or mobile home park, including a single-family dwelling, duplex, triplex, quadruplex, condominium unit, or cooperative unit.
- "Mobile home park," as used in s. 163.045, F.S., to mean a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Thus, a residential property owner, as the bill defines the term, including a residential mobile home park owner, would be able to rely on s. 163.045, F.S., when removing or trimming trees from his or her property.

The bill does not appear to have a fiscal impact on state government but may have an indeterminate fiscal impact on local governments.

The bill provides an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Florida cities and counties often require a property owner to pay a fee and obtain a permit before removing or trimming a tree on his or her property. To make the maintenance and removal of dead, dying, diseased, and overgrown trees easier for Florida residential property owners, s. 163.045, F.S., limits the ability of local governments to regulate tree maintenance, removal, and mitigation<sup>1</sup> when a residential property owner acquires from a certified arborist<sup>2</sup> or a Florida licensed landscape architect documentation that the tree presents a danger to persons or property. Specifically, when a residential property owner has the requisite documentation, a local government may not require a:

- Notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on the owner's property.<sup>3</sup>
- Property owner to replant a tree that was pruned, trimmed, or removed.<sup>4</sup>

In 2019, a Tampa mobile home park owner felled 27 trees on his property after obtaining the requisite documentation from a properly-certified arborist.<sup>5</sup> However, the City of Tampa subsequently fined the property owner and the tree-cutting firm whose arborist signed off on the tree removal a total of \$420,000 each under a local tree removal ordinance, claiming that s. 163.045, F.S., does not apply to the mobile home park as the property is zoned commercial, not residential, even though the park was divided up into residential mobile home lots.<sup>6</sup> In October of 2020, a Tampa code enforcement special magistrate agreed with the city's interpretation of the law, finding that the tree removal violated Tampa's tree removal ordinance and merited a \$234,427.50 fine.<sup>7</sup> An appeal of the special magistrate's decision is currently pending.<sup>8</sup>

#### Effect of Proposed Changes

HB 1167 defines the term:

- "Residential property," as used in s. 163.045, F.S., to mean any residential real property, manufactured or modular home, or mobile home park, including a single-family dwelling, duplex, triplex, quadruplex, condominium unit, or cooperative unit.
- "Mobile home park," as used in s. 163.045, F.S., to mean a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Thus, a residential property owner, as the bill defines the term, including a residential mobile home park owner, would be able to rely on s. 163.045, F.S., when removing or trimming trees on his or her property.

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<sup>1</sup> This section does not apply to the exercise of specifically delegated authority for mangrove protection under ss. 403.9321-403.9333, F.S.

<sup>2</sup> The arborist must be certified by the International Society of Arboriculture. S. 163.045(1), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> S. 163.045(2), F.S.

<sup>5</sup> Charlie Frago, *Tampa Seeks to Fine Gandy Tree Cutters a Record \$840,000*, Tampa Bay Times (Sept. 18, 2019), <https://www.tampabay.com/news/tampa/2019/09/18/tampa-seeks-to-fine-gandy-tree-cutters-a-record-840000/> (last visited Mar. 26, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> Charlie Frago, *Tampa Fines South Tampa Tree Cutters Nearly \$250,000*, Tampa Bay Times (Oct. 30, 2020), <https://www.tampabay.com/news/tampa/2020/10/30/tampa-fines-south-tampa-tree-cutters-nearly-250000/> (last visited Mar. 26, 2021).

<sup>8</sup> Charlie Frago, *Tampa Tree Cutting Spat Headed to An Appeals Court*, Tampa Bay Times (Nov. 27, 2020), <https://www.tampabay.com/news/tampa/2020/11/27/tampa-tree-cutting-spat-headed-to-an-appeals-court/> (last visited Mar. 26, 2021).

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 163.045, F.S., relating to tree pruning, trimming, or removal on residential property.

**Section 2:** Provides an effective date of July 1, 2021.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

There may be an indeterminate fiscal impact on local governments because the bill limits their ability to collect, from specified residential property owners whose properties may not have been covered under s. 163.045, F.S., tree removal permit fees or local tree removal ordinance violation fines if the requirements of s. 163.045, F.S., are met. The bill also limits a local government's ability to fine tree removal firms removing or trimming trees on such properties if the property owners met the requirements of s. 163.045, F.S.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill would shield specified residential property owners that may not have been covered under s. 163.045, F.S., from tree removal permit fees and local tree removal ordinance violation fines if the requirements of s. 163.045, F.S., are met. This bill would also protect tree removal firms removing or trimming trees from such properties if the property owners meet the requirements of s. 163.045, F.S.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**