

## Committee Substitute for Senate Bill No. 2268

An act relating to contracting; amending ss. 489.117 and 489.513, F.S.; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to establish the job scope for any licensure category registered by the respective board, for purposes of local uniformity; creating ss. 489.118 and 489.514, F.S.; providing requirements for certification of registered contractors for grandfathering purposes; requiring a study to determine the fiscal impact on local governments of a single-tier regulatory system for construction and electrical and alarm system contractors; requiring a report; amending s. 205.065, F.S.; providing for recovery of attorney's fees for a prevailing party in any action brought by a contractor challenging an unlawful occupational license levy; amending s. 468.609, F.S.; revising eligibility requirements for certification as a building inspector or plans examiner; amending s. 468.621, F.S.; providing a ground for disciplinary action relating to the issuance of a building permit without obtaining a contractor certificate or registration number, where such a certificate or registration is required; providing penalties; amending ss. 20.165, 471.045, 481.222, 489.109, and 489.519, F.S.; correcting references, to conform; amending s. 469.001, F.S.; defining the term "ASHARA"; revising terminology in a reference; amending s. 469.002, F.S.; revising references relating to training required of certain persons exempt from regulation under ch. 469, F.S., relating to asbestos abatement; amending s. 469.004, F.S.; providing for biennial renewal of licenses of asbestos consultants and asbestos contractors and providing continuing education requirements therefor; amending s. 469.005, F.S.; eliminating a course requirement for licensure as an asbestos consultant; amending s. 469.006, F.S.; revising requirements to qualify additional business organizations for licensure; amending s. 469.011, F.S.; providing rulemaking authority for implementation of the chapter; requiring consideration of certain federal regulations in developing such rules; amending s. 469.012, F.S.; revising course requirements for onsite supervisors and asbestos abatement workers; correcting terminology; amending s. 469.013, F.S.; revising course requirements for asbestos surveyors, management planners, and project monitors, and providing course requirements for project designers; correcting terminology; creating s. 489.13, F.S.; prohibiting any person from performing any activity requiring licensure as a construction contractor under pt. I, ch. 489, F.S., unless the person holds a valid active certificate or registration to perform such activity issued under such part; providing penalties; prohibiting any local building department from issuing a building permit to any person who does not hold an active valid certificate or registration in the applicable construction category issued under such part; amending s. 489.503, F.S.; clarifying an existing utilities exemption from regulation under pt. II, ch. 489, F.S., relating to electrical and alarm system contracting; amending s. 489.511, F.S.; requiring certain work experience for an alarm system contractor I to be in certain

types of fire alarm systems; revising provisions relating to designation and certification of specialty contractors; providing for the voiding of previously issued registered licenses upon issuance of certification in the same classification; amending s. 489.513, F.S., and repealing subsection (7), relating to tracking registration and discipline related thereto; revising requirements for registration as an electrical contractor, alarm system contractor I or II, or registered alarm system contractor; amending s. 489.537, F.S.; authorizing certain persons to install residential smoke or heat detectors; amending s. 489.129, F.S.; providing certain legal protection to a contractor relying on a building code interpretation rendered by certain officials; amending s. 633.061, F.S.; providing for biennial licensure of persons servicing, recharging, repairing, testing, marking, inspecting, or installing fire extinguishers and systems; providing license and permit fees; providing for prorated license fee; providing for continuing education; providing effective dates.

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

Section 1. Subsection (5) is added to section 489.117, Florida Statutes, 1998 Supplement, to read:

489.117 Registration; specialty contractors.—

(5) In order to establish uniformity among the job scopes established by local jurisdictions, the board shall, by rule, establish the job scope for any licensure category registered by the board under this part. The board shall not arbitrarily limit such scopes and shall restrict the job scopes only to the minimum extent necessary to ensure uniformity.

Section 2. Subsection (8) is added to section 489.513, Florida Statutes, 1998 Supplement, to read:

489.513 Registration; application; requirements.—

(8) In order to establish uniformity among the job scopes established by local jurisdictions, the board shall, by rule, establish the job scope for any licensure category registered by the board under this part. The board shall not arbitrarily limit such scopes and shall restrict the job scopes only to the minimum extent necessary to ensure uniformity.

Section 3. Section 489.118, Florida Statutes, is created to read:

489.118 Certification of registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certificate in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(1) Currently holds a valid registered local license in one of the contractor categories defined in s. 489.105(3)(a)-(p).

(2) Has, for that category, passed a written examination that the board finds to be substantially similar to the examination required to be licensed as a certified contractor under this part. For purposes of this subsection, a written, proctored examination such as that produced by the National Assessment Institute, Block and Associates, or NAI/Block shall be considered to be substantially similar to the examination required to be licensed as a certified contractor.

(3) Has at least 5 years of experience as a contractor in that contracting category, or as an inspector or building administrator with oversight over that category, at the time of application. For contractors, only time periods in which the contractor license is active and the contractor is not on probation shall count toward the 5 years required by this subsection.

(4) Has not had his or her contractor's license revoked at any time, had his or her contractor's license suspended within the last 5 years, or been assessed a fine in excess of \$500 within the last 5 years.

(5) Is in compliance with the insurance and financial responsibility requirements in s. 489.115(5).

Section 4. Section 489.514, Florida Statutes, is created to read:

489.514 Certification for registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certification in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(1) Currently holds a valid registered local license in the category of electrical or alarm system contractor.

(2) Has, for that category, passed a written examination that the board finds to be substantially similar to the examination required to be licensed as a certified contractor under this part. For purposes of this subsection, a written, proctored examination such as that produced by the National Assessment Institute, Block and Associates, or NAI/Block shall be considered to be substantially similar to the examination required to be licensed as a certified contractor.

(3) Has at least 5 years of experience as a contractor in that contracting category, or as a inspector or building administrator with oversight over that category, at the time of application. For contractors, only time periods in which the contractor license is active and the contractor is not on probation shall count toward the 5 years required under this subsection.

(4) Has not had his or her contractor's license revoked at any time, had his or her contractor's license suspended in the last 5 years, or been assessed a fine in excess of \$500 in the last 5 years.

(5) Is in compliance with the insurance and financial responsibility requirements in s. 489.515(1)(b).

Section 5. (1) The Legislative Committee on Intergovernmental Relations, in consultation with the Office of Program Policy Analysis and Government Accountability, shall conduct a study to determine the fiscal impact on local governments of instituting a single-tier regulatory system for construction and electrical and alarm system contractors in Florida. Such a system would be established by prohibiting, on a date certain, issuance of new local licenses in any category set forth in section 489.105(3)(a)-(p), Florida Statutes, 1998 Supplement, or in the category of electrical or alarm system contracting, while allowing existing locally licensed construction and electrical and alarm system contractors the option of continuing and concluding their careers as locally licensed, registered contractors.

(2)(a) The study required by this section shall include:

1. A survey of local governments to identify the licensing revenues and associated expenditures by those jurisdictions that issue local construction and electrical and alarm system contractor licenses.

2. An analysis of the projected impact upon the licensure and disciplinary departments of such jurisdictions caused by ending local construction and electrical and alarm system contractor licensure.

3. An analysis of the extent to which revenues raised from licensees are being used to fund activities other than the discipline of such licensees.

(b) After the revenue and expenditure information for all local jurisdictions that issue construction and electrical and alarm system contractor licenses has been gathered under subparagraph (a)1., the analysis portions of the study under subparagraphs (a)2. and 3. may be limited to the 10 most active jurisdictions.

(3) A report on the findings of the study, including the results of the survey and analyses required, shall be presented to the chairs of the appropriate substantive committees of the Legislature by December 1, 1999.

(4) This section shall take effect upon this act becoming a law.

Section 6. Section 205.065, Florida Statutes, is amended to read:

205.065 Exemption; nonresident persons regulated by the Department of Business and Professional Regulation.—If any person engaging in or managing a business, profession, or occupation regulated by the Department of Business and Professional Regulation has paid an occupational license tax for the current year to the county or municipality in the state where the person's permanent business location or branch office is maintained, no other local governing authority may levy an occupational license tax, or any registration or regulatory fee equivalent to the occupational license tax, on the person for performing work or services on a temporary or transitory basis in another municipality or county. In no event shall any work or services performed in a place other than the county or municipality where the permanent business location or branch office is maintained be construed as creating a separate business location or branch office of that person for the purposes of this chapter. Any properly licensed contractor

asserting an exemption under this section who is unlawfully required by the local governing authority to pay an occupational license tax, or any registration or regulatory fee equivalent to the occupational license tax, shall have standing to challenge the propriety of the local government's actions, and the prevailing party in such a challenge is entitled to recover a reasonable attorney's fee.

Section 7. Paragraph (c) of subsection (2) of section 468.609, Florida Statutes, 1998 Supplement, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(2) A person shall be entitled to take the examination for certification as an inspector or plans examiner pursuant to this part if the person:

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction or a related field, building inspection, or plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building inspection, or plans review; ~~or~~

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building inspection, or plans review; or

4.3. Currently holds a standard certificate as issued by the board and satisfactorily completes an inspector or plans examiner training program of not less than 200 hours in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs.

Section 8. Paragraph (h) is added to subsection (1) of section 468.621, Florida Statutes, 1998 Supplement, to read:

468.621 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(h) Issuing a building permit to a contractor, or any person representing himself or herself as a contractor, without obtaining the contractor's certificate or registration number, where such a certificate or registration is required.

Section 9. Paragraph (a) of subsection (4) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(4)(a) The following boards are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.
2. Florida Board of Auctioneers, created under part VI of chapter 468.
3. Barbers' Board, created under chapter 476.
4. Florida Building Code Administrators and Inspectors Board, created under part ~~XII~~ XIII of chapter 468.
5. Construction Industry Licensing Board, created under part I of chapter 489.
6. Board of Cosmetology, created under chapter 477.
7. Electrical Contractors' Licensing Board, created under part II of chapter 489.
8. Board of Employee Leasing Companies, created under part XI of chapter 468.
9. Board of Funeral Directors and Embalmers, created under chapter 470.
10. Board of Landscape Architecture, created under part II of chapter 481.
11. Board of Pilot Commissioners, created under chapter 310.
12. Board of Professional Engineers, created under chapter 471.
13. Board of Professional Geologists, created under chapter 492.
14. Board of Professional Surveyors and Mappers, created under chapter 472.
15. Board of Veterinary Medicine, created under chapter 474.

Section 10. Section 471.045, Florida Statutes, 1998 Supplement, is amended to read:

471.045 Professional engineers performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed under this chapter to practice as a professional engineer may provide building inspection services described in s. 468.603(6) and (7) to a local government or state agency upon its request, without being certified by the Florida Board of Building Code Administrators and Inspectors Board under part ~~XII~~ XIII of chapter 468. When performing these building inspection services, the professional engineer is subject to the disciplinary guidelines

of this chapter and s. 468.621(1)(c)-(h)(e)-(g). Any complaint processing, investigation, and discipline that arise out of a professional engineer's performing building inspection services shall be conducted by the Board of Professional Engineers rather than the Florida Board of Building Code Administrators and Inspectors Board. A professional engineer may not perform plans review as an employee of a local government upon any job that the professional engineer or the professional engineer's company designed.

Section 11. Section 481.222, Florida Statutes, 1998 Supplement, is amended to read:

481.222 Architects performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed to practice as an architect under this part may provide building inspection services described in s. 468.603(6) and (7) to a local government or state agency upon its request, without being certified by the Florida Board of Building Code Administrators and Inspectors Board under part XII XIII of chapter 468. With respect to the performance of such building inspection services, the architect is subject to the disciplinary guidelines of this part and s. 468.621(1)(c)-(h)(e)-(g). Any complaint processing, investigation, and discipline that arise out of an architect's performance of building inspection services shall be conducted by the Board of Architecture and Interior Design rather than the Florida Board of Building Code Administrators and Inspectors Board. An architect may not perform plans review as an employee of a local government upon any job that the architect or the architect's company designed.

Section 12. Paragraph (e) of subsection (1) of section 489.109, Florida Statutes, is amended to read:

489.109 Fees.—

(1) The board, by rule, shall establish reasonable fees to be paid for applications, certification and renewal, registration and renewal, and recordmaking and recordkeeping. The fees shall be established as follows:

(e) The board, by rule, shall impose a renewal fee for an inactive status certificate or registration, not to exceed the renewal fee for an active status certificate or registration. Neither the inactive certification fee nor the inactive registration fee may exceed \$50. The board, by rule, may provide for a different fee for inactive status where such status is sought by a building code administrator, plans examiner, or inspector certified pursuant to part XII XIII of chapter 468 who is employed by a local government and is not allowed by the terms of such employment to maintain a certificate on active status issued pursuant to this part.

Section 13. Subsection (3) of section 489.519, Florida Statutes, 1998 Supplement, is amended to read:

489.519 Inactive status.—

(3) The board shall impose, by rule, continuing education requirements for inactive certificateholders, when inactive status is sought by certificate-

holders who are also building code administrators, plans examiners, or inspectors certified pursuant to part XII XIII of chapter 468.

Section 14. Section 469.001, Florida Statutes, 1998 Supplement, is amended to read:

469.001 Definitions.—As used in this chapter:

(1) “Abatement” means the removal, encapsulation, enclosure, or disposal of asbestos.

(2) “AHERA” means the Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. s. 2601, and any rules adopted thereunder.

(3) “Asbestos” means the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite.

(4) “Asbestos abatement worker” means a person who works as an employee under the direction of a licensed asbestos contractor, and includes any person directly engaged in abatement activities.

(5) “Asbestos consultant” means a person who offers to, undertakes to, submits a bid to, or does, individually or by employing others, conduct surveys for asbestos-containing materials, develop operation and maintenance plans, monitor and evaluate asbestos abatement, prepare asbestos abatement specifications, or perform related tasks.

(6) “Asbestos-containing material” means any material which contains more than 1 percent asbestos as determined by polarized light microscopy.

(7) “Asbestos contractor” means the person who is qualified and responsible for the contracted project and who offers to, undertakes to, submits a bid to, or does, individually or by employing others, remove, encapsulate, or enclose asbestos-containing materials or dispose of asbestos-containing waste in the course of activities including, but not limited to, construction, renovation, maintenance, or demolition.

(8) “Asbestos surveyor” means a person who works under the direction of a licensed asbestos consultant and engages in the survey and assessment of asbestos-containing materials. This term is synonymous with “inspector” under AHERA.

(9) “ASHARA” means the Asbestos School Hazard Reauthorization Act.

~~(10)~~(9) “Department” means the Department of Business and Professional Regulation.

~~(11)~~(10) “Encapsulation” means the application of any coating to asbestos-containing material to prevent fiber release.

~~(12)~~(11) “Enclosure” means the construction of an airtight barrier around asbestos-containing material to prevent fiber release.

~~(13)~~(12) “Friable” means the condition of any asbestos-containing materials which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.



(14)(13) “Management planner” means a person who works under the direction of a licensed asbestos consultant and engages in the development of asbestos abatement schedules or operation and maintenance plans.

(15)(14) “NESHAP” means the National Emission Standards for Hazardous Air Pollutants, 40 C.F.R. part 61, subpart M.

(16)(15) “NIOSH” means the National Institute for Occupational Safety and Health.

(17)(16) “Onsite roofing supervisor” means a person who works under the direction of a roofing contractor certified pursuant to part I of chapter 489 and provides supervision of removal of asbestos-containing roofing materials at the project site at all times when such activities are being performed.

(18)(17) “Onsite supervisor” means a person who works under the direction of a licensed asbestos contractor and provides supervision of abatement activities at the abatement project site at all times when such activities are being performed. This term is synonymous with “onsite representative” in the NESHAP asbestos standard rules.

(19)(18) “Operation and maintenance plan” means a set of work practices and procedures undertaken to clean up previously released asbestos fibers, prevent future release of fibers by minimizing disturbance or damage to asbestos-containing materials, or monitor the condition of the asbestos-containing materials.

(20)(19) “OSHA” means the Occupational Safety and Health Administration.

(21)(20) “Project designer” means a person who works under the direction of a licensed asbestos consultant and engages in the design of project specifications for asbestos abatement projects.

(22)(21) “Project monitor” means a person who monitors asbestos abatement projects for compliance with project specifications, applicable safety and health regulations, and other contract requirements under the direction of a licensed asbestos consultant.

(23)(22) “Survey” means the process of inspecting a facility for the presence of asbestos-containing materials to determine the location and condition of asbestos-containing materials prior to transfer of property, renovation, demolition, or maintenance projects which may disturb asbestos-containing materials.

(24)(23) “Training-course provider” means an entity or any of its agents engaged in providing training courses required by this chapter.

Section 15. Paragraphs (a) and (e) of subsection (1) of section 469.002, Florida Statutes, 1998 Supplement, are amended to read:

469.002 Exemptions.—

(1) This chapter does not apply to:

(a) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, public or private school, or private entity who has completed all training required by NESHAP and OSHA or by ~~ASHARA~~ ~~AHERA~~ for the activities described in this paragraph and who is conducting abatement work solely for maintenance purposes within the scope of the person's employment involving less than 160 square feet of asbestos-containing materials or less than 260 linear feet of asbestos-containing material on pipe, so long as the employee is not available for hire or does not otherwise engage in asbestos abatement, contracting, or consulting.

(e) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision who has completed all training required by NESHAP and OSHA or by ~~ASHARA~~ ~~AHERA~~ for the activities described in this paragraph, while engaged in asbestos-related activities set forth in s. 255.5535 and asbestos-related activities involving the demolition of a building owned by that governmental unit, where such activities are within the scope of that employment and the employee does not hold out for hire or otherwise engage in asbestos abatement, contracting, or consulting.

Section 16. Subsection (3) is added to section 469.004, Florida Statutes, 1998 Supplement, to read:

469.004 License; asbestos consultant; asbestos contractor.—

(3) A license issued under this chapter must be renewed every 2 years. Before an asbestos contractor's license may be renewed, the licensee must complete a 1-day course of continuing education during each of the preceding 2 years. Before an asbestos consultant's license may be renewed, the licensee must complete a 2-day course of continuing education during each of the preceding 2 years.

Section 17. Subsection (2) of section 469.005, Florida Statutes, 1998 Supplement, is amended to read:

469.005 License requirements.—All applicants for licensure as either asbestos consultants or asbestos contractors shall:

(2) When applying for licensure as an asbestos consultant, successfully complete the following department-approved courses:

~~(a) An asbestos contractor/supervisor course. Such course shall consist of not less than 5 days of instruction.~~

~~(a)~~~~(b)~~ A building asbestos surveys and mechanical systems course. Such course shall consist of not less than 3 days of instruction.

~~(b)~~~~(c)~~ An asbestos management planning course. Such course shall consist of not less than 2 days of instruction.

~~(c)~~(d) A respiratory protection course. Such course shall consist of not less than 3 days of instruction.

(d)(e) A project designer course. Such course shall consist of not less than 3 days of instruction.

Section 18. Subsection (6) of section 469.006, Florida Statutes, 1998 Supplement, is amended to read:

469.006 Licensure of business organizations; qualifying agents.—

(6) Each qualifying agent shall pay the department an amount equal to the original fee for licensure of a new business organization. If the qualifying agent for a business organization desires to qualify additional business organizations, the department shall require the agent to present evidence of supervisory ability and financial responsibility of each such organization. Allowing a licensee to qualify more than one business organization shall be conditioned upon the licensee showing that the licensee has both the capacity and intent to adequately supervise each business organization. The department shall not limit the number of business organizations which the licensee may qualify except upon the licensee's failure to provide such information as is required under this subsection or upon a finding that such information or evidence as is supplied is incomplete or unpersuasive in showing the licensee's capacity and intent to comply with the requirements of this subsection. A qualification for an additional business organization may be revoked or suspended upon a finding by the department that the licensee has failed in the licensee's responsibility to adequately supervise the operations of the business organization. Failure to adequately supervise the operations of a business organization shall be grounds for denial to qualify additional business organizations. The issuance of such additional licensure is discretionary with the department.

Section 19. Section 469.011, Florida Statutes, is amended to read:

469.011 Authority to make rules.—~~The department shall adopt such rules pursuant to ss. 120.536(1) and 120.54, not inconsistent with law, as may be necessary to implement the provisions of this chapter. In developing the rules, the department shall consider related Florida Statutes and the rules promulgated thereunder, the criteria established in the Environmental Protection Agency Guidelines, and AHERA, ASHARA, NESHAP, and OSHA regulations.~~

Section 20. Subsections (1), (2), and (4) of section 469.012, Florida Statutes, are amended to read:

469.012 Course requirements for onsite supervisors and asbestos abatement workers.—

(1) Each asbestos contractor's onsite supervisor must complete an asbestos contractor/supervisor project management and supervision course of not less than 5 4 days prior to engaging in onsite supervision. Such training shall cover the nature of the health risks, the medical effects of exposure, federal and state asbestos laws and regulations, worker protection, and

work area protection. Each onsite supervisor must also complete a continuing education course of not less than 1 day in length each year.

(2) All asbestos abatement workers, including onsite supervisors, must complete a department-approved course of not less than ~~4~~ <sup>3</sup> days in abatement prior to removing, encapsulating, enclosing, or disposing of asbestos-containing materials.

(4) All asbestos abatement workers, including onsite supervisors, must complete, as a condition of renewal of accreditation licensure, such courses of continuing education each year as are approved and required by the department.

Section 21. Section 469.013, Florida Statutes, 1998 Supplement, is amended to read:

469.013 Course requirements for asbestos surveyors, management planners, ~~and project monitors, and project designers.~~—

(1) All asbestos surveyors, management planners, and project monitors must comply with the requirements set forth in this section prior to commencing such activities and must also complete the continuing education necessary to maintain accreditation ~~certification~~ each year.

(a) Management planners must complete all requirements of s. 469.005(2)(~~b~~)(~~e~~) and (d) ~~(e)~~.

(b) Asbestos surveyors must complete all requirements of s. 469.005(2)(~~a~~)(~~b~~).

(c) Project monitors must complete all requirements of s. 469.005(~~3~~)(2)(a) and must also complete an asbestos sampling course which is equivalent to NIOSH Course 582.

(d) Project designers must complete all requirements of s. 469.005(2)(d).

(2) Each asbestos consultant shall be responsible for securing and retaining all records in order to verify that all surveyors, planners, ~~and monitors, and designers~~ working under that consultant's direction have completed all required courses. Such records shall be produced upon the department's request.

Section 22. Section 489.13, Florida Statutes, is created to read:

489.13 Unlicensed contracting; authority to issue or receive a building permit.—

(1) Any person performing an activity requiring licensure under this part as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity, regardless of whether he or she holds a local construction contractor license or local certificate of competency. Persons working outside the geographical scope of their registration are guilty of unlicensed activity for purposes of this part.

(2) A local building department shall not issue a building permit to any contractor, or to any person representing himself or herself as a contractor, who does not hold a valid active certificate or registration in the appropriate category. Possession of a local certificate of competency or local construction license is not sufficient to lawfully obtain a building permit as a construction contractor if the activity in question requires licensure under this part. Nothing in this section shall be construed as prohibiting a local building department from issuing a building permit to a locally licensed or certified contractor for an activity that does not require licensure under this part.

Section 23. Subsection (14) of section 489.503, Florida Statutes, 1998 Supplement, is amended to read:

(Substantial rewording of subsection. See s. 489.503(14), F.S., 1998 Supp., for present text.)

489.503 Exemptions.—This part does not apply to:

(14)(a) The installation of, repair of, alteration of, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof, when those items are for the purpose of transmitting data, voice communications, or commands as part of a cable television, community antenna television, or radio distribution system. The scope of this exemption is limited to electrical circuits and equipment governed by the applicable provisions of Articles 725 (Classes 2 and 3 circuits only), 770, 800, 810, and 820 of the National Electrical Code, current edition, or 47 C.F.R. part 68.

(b) The installation of, repair of, alteration of, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof, when those items are for the purpose of transmitting data, voice communications, or commands as part of a system of telecommunications, including computers, telephone customer premises equipment, or premises wiring. The scope of this exemption is limited to electrical circuits and equipment governed by the applicable provisions of Articles 725 (Classes 2 and 3 circuits only), 770, 800, 810, and 820 of the National Electrical Code, current edition, or 47 C.F.R. part 68. A company certified under chapter 364 is not subject to any local ordinance that requires a permit for work performed by its employees related to low voltage electrical work, including related technical codes and regulations. The exemption in this paragraph shall apply only if such work is requested by the company's customer, is required in order to complete phone service, is incidental to provision of telecommunication service as required by chapter 364, and is not the subject of a competitive bid. The definition of "employee" established in subsection (1) applies to this exemption and does not include subcontractors.

Section 24. Paragraph (c) is added to subsection (2) of section 489.511, Florida Statutes, 1998 Supplement, subsection (5) of that section is amended, and subsection (7) is added to that section, to read:

489.511 Certification; application; examinations; endorsement.—

(2)

(c) For purposes of this subsection, at least 40 percent of the work experience for an alarm system contractor I must be in the types of fire alarm systems typically used in a commercial setting.

~~(5)(a) The board shall, by rule, designate those types of specialty electrical or alarm system contractors who may be certified under this part. The limit of the scope of work and responsibility of a certified specialty contractor shall be established by the board by rule. However, A certified specialty contractor category exists as an optional a voluntary statewide licensing category. Qualification for certification in a specialty category created by rule shall be the same as set forth in paragraph (2)(a). The existence of a specialty category created by rule does not itself create any licensing requirement; however, neither does its optional nature remove any licensure requirement established elsewhere in this part and does not create a mandatory licensing requirement. Any mandatory statewide electrical or alarm system contracting licensure requirement may only be established through specific statutory provision.~~

~~(b) For those specialty electrical or alarm system contractors applying for certification under this part who work in jurisdictions that do not require local licensure for those activities for which the applicant desires to be certified, the experience requirement may be met by demonstrating at least 6 years of comprehensive training, technical education, or supervisory experience, within the 12 years immediately preceding the filing of the application, in the type of specialty electrical or alarm system filing of the application, in the type of specialty electrical or alarm system work for which certification is desired. An affidavit signed by the applicant's employer stating that the applicant performed the work required under this paragraph shall be sufficient to demonstrate to the board that the applicant has met the experience requirement.~~

(7) Upon the issuance of a certificate, any previously issued registered licenses for the classification in which the certification is issued are rendered void.

Section 25. Subsection (3) of section 489.513, Florida Statutes, 1998 Supplement, is amended, and subsection (7) of that section is repealed, to read:

489.513 Registration; application; requirements.—

(3) To be registered as an electrical contractor, an alarm system contractor I, an alarm system contractor II, or a residential alarm system contractor, the applicant shall file evidence of holding a current certificate of competency occupational license or a current license issued by any municipality or county of the state for the type of work for which registration is desired, on a form provided by the department, ~~if such a license is required by that municipality or county,~~ together with evidence of having passed an appropriate local examination, written or oral, designed to test skills and knowledge relevant to the technical performance of the profession, accompanied by the registration fee fixed pursuant to this part. For any person working or wishing to work in any local jurisdiction ~~that which does not issue a local~~

license as an electrical or alarm system contractor or does not require an examination for its license, the applicant may apply and shall be considered qualified to be issued a registration in the appropriate electrical or alarm system category, provided that he or she shows that he or she has scored at least 75 percent on an examination which is substantially equivalent to the examination approved by the board for certification in the category and that he or she has had at least 3 years' technical experience in the trade. The requirement to take and pass an examination in order to obtain a registration shall not apply to persons making application prior to the effective date of this act.

~~(7) Neither the board nor the department assumes any responsibility for providing discipline pursuant to having provided the tracking registration. Providing discipline to such locally licensed individuals shall be the responsibility of the local jurisdiction. Failure to obtain a tracking registration shall not be considered a violation of this chapter. However, a local jurisdiction requiring such tracking registration may levy such penalties for failure to obtain the tracking registration as the local jurisdiction chooses to provide through local ordinance.~~

Section 26. Subsection (10) is added to section 489.537, Florida Statutes, 1998 Supplement, to read:

489.537 Application of this part.—

(10) A registered electrical contractor, an alarm system contractor II certificateholder, and a registered alarm system contractor II shall be allowed to install residential smoke detectors or residential heat detectors.

Section 27. Subsection (1) of section 489.129, Florida Statutes, 1998 Supplement, is amended to read:

489.129 Disciplinary proceedings.—

(1) The board may take any of the following actions against any certificateholder or registrant: place on probation or reprimand the licensee, revoke, suspend, or deny the issuance or renewal of the certificate, registration, or certificate of authority, require financial restitution to a consumer for financial harm directly related to a violation of a provision of this part, impose an administrative fine not to exceed \$5,000 per violation, require continuing education, or assess costs associated with investigation and prosecution, if the contractor, financially responsible officer, or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195 is found guilty of any of the following acts:

(a) Obtaining a certificate, registration, or certificate of authority by fraud or misrepresentation.

(b) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(c) Violating any provision of part I of chapter 455.

(d) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered.

(e) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his or her certificate, registration, or certificate of authority to be used by the uncertified or unregistered person with intent to evade the provisions of this part. When a certificateholder or registrant allows his or her certificate or registration to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this part.

(f) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificateholder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificateholder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this part.

(g) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 75 days after the date of such liens;

2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned; or

3. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

(h) Being disciplined by any municipality or county for an act or violation of this part.

(i) Failing in any material respect to comply with the provisions of this part or violating a rule or lawful order of the board.



(j) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project may be presumed abandoned after 90 days if the contractor terminates the project without just cause or without proper notification to the owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days.

(k) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(l) Committing fraud or deceit in the practice of contracting.

(m) Committing incompetency or misconduct in the practice of contracting.

(n) Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.

(o) Proceeding on any job without obtaining applicable local building department permits and inspections.

(p) Intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under part I of chapter 713 or a notice to contractor under chapter 255 or part I of chapter 713.

(q) Failing to satisfy within a reasonable time, the terms of a civil judgment obtained against the licensee, or the business organization qualified by the licensee, relating to the practice of the licensee's profession.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender. A contractor does not commit a violation of this subsection when the contractor relies on a building code interpretation rendered by a building official or person authorized by s. 553.80 to enforce the building code, absent a finding of fraud or deceit in the practice of contracting, or gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property on the part of the building official, in a proceeding under chapter 120.

Section 28. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 633.061, Florida Statutes, 1998 Supplement, are amended to read:

633.061 License or permit required of organizations and individuals servicing, recharging, repairing, testing, marking, inspecting, installing, or hydrotesting fire extinguishers and preengineered systems.—

(1) It is unlawful for any organization or individual to engage in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or preengineered system in this state except in conformity with the provisions of this chapter. Each organization or individual that engages in such activity must possess a valid

and subsisting license issued by the State Fire Marshal. All fire extinguishers and preengineered systems required by statute or by rule must be serviced by an organization or individual licensed under the provisions of this chapter. The licensee is legally qualified to act for the business organization in all matters connected with its business, and the licensee must supervise all activities undertaken by such business organization. Each licensee shall maintain a specific business location. A further requirement, in the case of multiple locations where such servicing or recharging is taking place, is that each licensee who maintains more than one place of business where actual work is carried on must possess an additional license, as set forth in this section, for each location, except that a licensed individual may not qualify for more than five locations. A licensee is limited to a specific type of work performed depending upon the class of license held. Licenses and license fees are required for the following:

(a) Class A . . . . . \$250 ~~\$150~~  
To service, recharge, repair, install, or inspect all types of fire extinguishers and to conduct hydrostatic tests on all types of fire extinguishers.

(b) Class B . . . . . \$150 ~~\$100~~  
To service, recharge, repair, install, or inspect all types of fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

(c) Class C . . . . . \$150 ~~\$100~~  
To service, recharge, repair, install, or inspect all types of fire extinguishers, except recharging carbon dioxide units, and to conduct hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

(d) Class D . . . . . \$200 ~~\$125~~  
To service, repair, recharge, hydrotest, install, or inspect all types of preengineered fire extinguishing systems.

(e) Licenses issued as duplicates or to reflect a change of address . . . . . \$10

Any fire equipment dealer licensed pursuant to this subsection who does not want to engage in the business of servicing, inspecting, recharging, repairing, hydrotesting, or installing halon equipment must file an affidavit on a form provided by the division so stating. Licenses will be issued by the division to reflect the work authorized thereunder. It is unlawful, unlicensed activity for any person or firm to falsely hold himself or herself or a business organization out to perform any service, inspection, recharge, repair, hydrotest, or installation except as specifically described in the license.

(2) Each individual actually performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit issued by the State Fire Marshal. Permittees are limited as to specific type of work performed dependent upon the class of permit held which shall be a class allowing work no more extensive than the class of license held by the licensee under whom the permittee is working. Permits and fees therefor are required for the following:

- (a) Class 1 . . . . . \$90 ~~\$50~~  
 Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers and conducting hydrostatic tests on all types of fire extinguishers.
- (b) Class 2 . . . . . \$90 ~~\$50~~  
 Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, including carbon dioxide units, and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.
- (c) Class 3 . . . . . \$90 ~~\$50~~  
 Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, except recharging carbon dioxide units, and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.
- (d) Class 4 . . . . . \$120 ~~\$65~~  
 Servicing, repairing, hydrotesting, recharging, installing, or inspecting all types of preengineered fire extinguishing systems.
- (e) Permits issued as duplicates or to reflect a change of address . . . . . \$10

Any fire equipment permittee licensed pursuant to this subsection who does not want to engage in servicing, inspecting, recharging, repairing, hydrotesting, or installing halon equipment must file an affidavit on a form provided by the division so stating. Permits will be issued by the division to reflect the work authorized thereunder. It is unlawful, unlicensed activity for any person or firm to falsely hold himself or herself out to perform any service, inspection, recharge, repair, hydrotest, or installation except as specifically described in the permit.

(3)(a) Such licenses and permits shall be issued by the State Fire Marshal for 2 years each license year beginning January 1, 2000, and each 2-year period thereafter and expiring the following December 31 of the second year. All licenses or permits issued will expire on December 31 of each odd-numbered year. The failure to renew a license or permit by December 31 of the second year will cause the license or permit to become inoperative. The holder of an inoperative license or permit shall not engage in any activities for which a license or permit is required by this section. A license or permit which is inoperative because of the failure to renew it shall be restored upon payment of the applicable fee plus a penalty equal to the applicable fee, if the application for renewal is filed no later than the following March 31. If the application for restoration is not made before the March 31st deadline, the fee for restoration shall be equal to the original application fee and the penalty provided for herein, and, in addition, the State Fire Marshal shall require reexamination of the applicant. The fee for a license or permit issued for 1 year or less shall be prorated at 50 percent of the applicable fee for a biennial license or permit. Each licensee or permittee shall successfully complete a course or courses of continuing education for fire equipment technicians of at least 32 hours within 4 ½ years of initial issuance of a license or permit and within each 4-year ~~every 5-year~~ period thereafter or no such license or permit shall be renewed. The State Fire Marshal shall adopt rules describing the continuing education requirements.

Section 29. Except as otherwise provided herein, this act shall take effect October 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.