

## Committee Substitute for Senate Bill Nos. 14-E and 16-E

An act relating to workers' compensation; providing that any licensee under ch. 489, F.S., who forms a corporation in order to become eligible for an exemption from certain requirements for workers' compensation coverage is not required to obtain approval for a change of status or for a qualified business organization license under ch. 489, F.S., until July 1, 2004; providing that such a licensee is not in violation of ch. 440, ch. 489, or ch. 553, F.S., solely because such approval has not been obtained before that date; specifying that applications for licensure and for a change of status are subject to the requirements of s. 120.60, F.S.; enunciating the timeframes within which the Department of Business and Professional Regulation must request additional information and approve or deny such applications; amending s. 440.02, F.S.; redefining the term "corporate officer" for purposes of ch. 440, F.S.; providing an effective date.

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

Section 1. (1) Any licensee under chapter 489, Florida Statutes, who forms a corporation in order to become eligible for an exemption from the requirements for workers' compensation coverage pursuant to sections 440.02, 440.05, and 440.077, Florida Statutes, as amended effective January 1, 2004, is not required to obtain approval for a change of status under section 489.115, Florida Statutes, and is not required to obtain a qualified business organization license or certificate of authority under section 489.119 or section 489.521, Florida Statutes, until July 1, 2004. Such licensee is not in violation of any provision of chapter 440, chapter 489, or chapter 553, Florida Statutes, and may not be denied a building permit, solely because a change of status or a qualified business license or certificate of authority is not approved before July 1, 2004. This section does not limit the authority of the Department of Business and Professional Regulation to prosecute or sanction such a licensee for a violation of chapter 489, Florida Statutes, other than for failure to obtain approval of a change of status or obtain a qualified business organization license or certificate of authority by July 1, 2004. The licensure status does not affect a person's right of recovery from the Construction Industries Recovery Fund pursuant to section 489.140, Florida Statutes.

(2) An application from a licensee referenced in subsection (1) for a change of status or for a qualified business organization license is subject to the requirements of section 120.60, Florida Statutes. For informational purposes, these requirements are summarized and restated as follows: Upon receipt of an application for a change of status or for a qualified business organization license, the Department of Business and Professional Regulation shall examine the application and, within 30 days after such receipt, notify the applicant of any apparent error or omission and request any additional information that the department is permitted by law to require. The department may not deny the change of status or deny a license for failure to correct an error or omission or for failure to supply additional

information unless the department timely notifies the applicant within this 30-day period. An application is considered complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. Each application must be approved or denied by the department within 90 days after receipt of a completed application. The 90-day time period is tolled by the initiation of a proceeding under sections 120.569 and 120.57, Florida Statutes. Any application for a change of status or for a license which is not approved or denied within the 90-day period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after a recommended order is submitted to the department and the parties, whichever action or timeframe is latest and applicable, is considered approved unless the recommended order recommends that the agency deny the license.

Section 2. Effective January 1, 2004, subsection (9) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(9) “Corporate officer” or “officer of a corporation” means any person who fills an office provided for in the corporate charter or articles of incorporation filed with the Division of Corporations of the Department of State or as permitted or required by chapter 607. As to persons engaged in the construction industry, the term “officer of a corporation” includes a member owning at least 10 percent of a limited liability company created and approved under chapter 608.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor November 12, 2003.

Filed in Office Secretary of State November 12, 2003.