

House Bill No. 1351

An act relating to contracting; amending s. 489.516, F.S.; exempting certain electrical and alarm system contractors from ordinances or codes of local governments or special districts requiring various types of recognition by certain national entities; authorizing local governments or special districts to require such contractors to provide certain documentation at the final inspection of an alarm system; reserving the authority of local governments and special districts to require compliance with the Florida Fire Prevention Code and NFPA No. 72; amending ss. 489.128 and 489.532, F.S.; providing that individuals performing certain construction contracting or electrical and alarm system contracting work are not considered unlicensed for purposes of contract enforceability; providing for retroactive application; amending s. 489.503, F.S.; exempting nationally recognized testing laboratories and persons who install or repair lightning rods from certain alarm system contracting provisions; amending s. 489.505, F.S.; revising definitions; defining the term “nationally recognized testing laboratory”; amending s. 489.513, F.S.; providing eligibility requirements for registering with the Department of Business and Professional Regulation as an electrical contractor or alarm system contractor; amending s. 489.529, F.S.; requiring a central monitoring station to employ call-verification methods under certain circumstances; amending s. 489.530, F.S.; exempting a fire alarm system from the requirement that it have a device that automatically terminates its audible signal after a certain period; providing an effective date.

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

Section 1. Subsection (5) is added to section 489.516, Florida Statutes, to read:

489.516 Qualifications to practice; restrictions; prerequisites.—

(5) Notwithstanding any other provision to the contrary, a certified electrical contractor, registered alarm system contractor I, registered alarm system contractor II, or alarm system contractor I or alarm system contractor II that is a certified alarm system contractor is exempt from any local law, local ordinance, or local code that requires a contractor to be listed or placarded by a nationally recognized testing laboratory or to be certified by any regionally or nationally recognized certification organization. However, a county, municipality, or special district may require any such electrical contractor or alarm system contractor to provide, at the final inspection of a fire alarm system, the documentation required by NFPA No. 72, “National Fire Alarm Code,” for installation and monitoring. This subsection does not prohibit a county, municipality, or special district from requiring compliance with the Florida Fire Prevention Code or with NFPA No. 72.

Section 2. Paragraphs (a) and (b) of subsection (1) of section 489.128, Florida Statutes, are amended to read:

489.128 Contracts entered into by unlicensed contractors unenforceable.—

(1) As a matter of public policy, contracts entered into on or after October 1, 1990, by an unlicensed contractor shall be unenforceable in law or in equity by the unlicensed contractor.

(a) For purposes of this section, an individual is unlicensed if the individual does not have a license required by this part concerning the scope of the work to be performed under the contract. A business organization is unlicensed if the business organization does not have a primary or secondary qualifying agent in accordance with this part concerning the scope of the work to be performed under the contract. For purposes of this section, if no state or local license is required for the scope of work to be performed under the contract, the individual performing that work shall not be considered unlicensed.

(b) For purposes of this section, an individual or business organization ~~may shall~~ not be considered unlicensed for failing to have an occupational license certificate issued under the authority of chapter 205. A business organization ~~may shall~~ not be considered unlicensed for failing to have a certificate of authority as required by ss. 489.119 and 489.127. For purposes of this section, a business organization entering into the contract may not be considered unlicensed if, before the date established by paragraph (c), an individual possessing a license required by this part concerning the scope of the work to be performed under the contract has submitted an application for a certificate of authority designating that individual as a qualifying agent for the business organization entering into the contract, and the application was not acted upon by the department or applicable board within the time limitations imposed by s. 120.60.

Section 3. Subsections (21) and (22) are added to section 489.503, Florida Statutes, to read:

489.503 Exemptions.—This part does not apply to:

(21) Alarm system inspections, audits, or quality assurance services performed by a nationally recognized testing laboratory that the Occupational Safety and Health Administration has recognized as meeting the requirements of 29 C.F.R. s. 1910.7.

(22) Any person who installs or repairs lightning rods or related systems.

Section 4. Subsections (2), (7), (25), (27), and (28) of section 489.505, Florida Statutes, are amended, and subsection (29) is added to that section, to read:

489.505 Definitions.—As used in this part:

(2) “Alarm system contractor” means a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, including, but

not limited to, all types of alarm systems for all purposes. This term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract; that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of alarm contracting; or that by itself or by or through others engages in the business of alarm contracting.

(a) “Alarm system contractor I” means an alarm system contractor whose business includes all types of alarm systems for all purposes.

(b) “Alarm system contractor II” means an alarm system contractor whose business includes all types of alarm systems other than fire, for all purposes, except as herein provided.

(7) “Certified alarm system contractor” means an alarm system contractor who possesses a certificate of competency issued by the department. The scope of certification is limited to alarm circuits originating in the alarm control panel and equipment governed by the applicable provisions of Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition. The scope of certification for alarm system contractors also includes the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS) 77 volts, when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks; however, this provision governing the scope of certification does not create any mandatory licensure requirement.

(25) “Burglar alarm system agent” means a person:

(a) Who is employed by a licensed alarm system contractor or licensed electrical contractor;

(b) Who is performing duties which are an element of an activity which constitutes alarm system contracting requiring licensure under this part; and

(c) Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling ~~onsite~~, or monitoring an intrusion or burglar alarm system for compensation.

(27) “Monitoring” means to receive electrical or electronic signals, originating from any structure building within the state or outside the state, regardless of whether those signals are relayed through a jurisdiction outside the state, where such signals are, produced by any security, medical, fire, or burglar alarm, closed circuit television camera, access-control system, or related or similar protective system and are intended by design to initiate a response thereto. A person shall not have committed the act of monitoring if:

(a) The person is an occupant of, or an employee working within, protected premises;

- (b) The person initiates emergency action in response to hearing or observing an alarm signal;
- (c) The person's action is incidental to his or her primary responsibilities; and
- (d) The person is not employed in a proprietary monitoring facility, as defined by the National Fire Protection Association pursuant to rule adopted under chapter 633.

(28) "Fire alarm system agent" means a person:

- (a) Who is employed by a licensed fire alarm contractor or certified unlimited electrical contractor;
- (b) Who is performing duties which are an element of an activity that constitutes fire alarm system contracting requiring certification under this part; and
- (c) Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling onsite, or monitoring a fire alarm system for compensation.

(29) "Nationally recognized testing laboratory" means an organization that the Occupational Safety and Health Administration has legally recognized to be in compliance with 29 C.F.R. s. 1910.7 and that provides quality assurance, product testing, or certification services.

Section 5. Subsection (1) of section 489.513, Florida Statutes, is amended to read:

489.513 Registration; application; requirements.—

(1) Any person engaged in the business of contracting in the state shall be registered in the proper classification, unless he or she is certified. Any person desiring to be a registered contractor shall apply to the department for registration and must:

- (a) Be at least 18 years old;
- (b) Be of good moral character; and
- (c) Meet eligibility requirements according to the following criteria:

1. As used in this subsection, the term "good moral character" means a personal history of honesty, fairness, and respect for the rights of others and for state and federal law.

2. The board may determine that an individual applying for registration is ineligible due to failure to satisfy the requirement of good moral character only if:

a. There is a substantial connection between the lack of good moral character of the individual and the professional responsibilities of a registered contractor; and

b. The finding by the board of lack of good moral character is supported by clear and convincing evidence.

3. When an individual is found to be unqualified because of lack of good moral character, the board must furnish such individual a statement containing the findings of the board, a complete record of evidence upon which the determination was based, and a notice of the rights of the individual to a rehearing and an appeal.

Section 6. Section 489.529, Florida Statutes, is amended to read:

489.529 Alarm verification calls required.—All residential or commercial intrusion/burglary alarms that have central monitoring must have a central monitoring verification call made to the premises generating the alarm signal, prior to alarm monitor personnel contacting a law enforcement agency for alarm dispatch. The central monitoring station must employ call-verification methods for the premises generating the alarm signal if the first call is not answered. However, if the intrusion/burglary alarms have properly operating visual or auditory sensors that enable the monitoring personnel to verify the alarm signal, verification calling is not required.

Section 7. Section 489.530, Florida Statutes, is amended to read:

489.530 Audible alarms.—Every audible alarm system installed by a licensed contractor shall have a device to automatically terminate the audible signal within 15 minutes of activation. A fire alarm system, whether installed voluntarily or as a requirement of an adopted code, which employs an audible fire signal is exempt as required by such code.

Section 8. Paragraph (a) of subsection (1) of section 489.532, Florida Statutes, is amended to read:

489.532 Contracts entered into by unlicensed contractors unenforceable.—

(1) As a matter of public policy, contracts entered into on or after October 1, 1990, by an unlicensed contractor shall be unenforceable in law or in equity by the unlicensed contractor.

(a) For purposes of this section, an individual is unlicensed if the individual does not have a license required by this part concerning the scope of the work to be performed under the contract. A business organization is unlicensed if the business organization does not have a primary or secondary qualifying agent in accordance with this part concerning the scope of the work to be performed under the contract. For purposes of this section, if no state or local license is required for the scope of work to be performed under the contract, the individual performing that work shall not be considered unlicensed.

Section 9. Sections 2 and 8 are intended to be remedial in nature and to clarify existing law. Sections 2 and 8 shall apply retroactively to all actions, including any action on a lien or bond claim, initiated on or after, or pending as of, July 1, 2006. If the retroactivity of any provision of section 2 or section

8 or its retroactive application to any person or circumstance is held invalid, the invalidity does not affect the retroactivity or retroactive application of other provisions of sections 2 and 8.

Section 10. This act shall take effect July 1, 2006.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.