

Committee Substitute for Senate Bill No. 404

An act relating to the housing and construction industry; amending s. 468.609, F.S.; providing additional eligibility requirements for a person to take the examination for certification as a building code inspector or plans examiner; revising a reference to the organization administering certain examinations; amending s. 468.617, F.S.; authorizing certain limited certificateholders to provide services to specified jurisdictions; amending s. 468.619, F.S.; providing for the application of the building code enforcement officials' bill of rights to certain disciplinary investigations and proceedings; amending s. 468.621, F.S.; providing for disciplinary proceedings for violations involving failure to follow building code or permit requirements, obstructing an investigation, and accepting services at a noncompetitive rate from any person whose work is under the enforcement authority of the official, under certain circumstances; amending s. 468.627, F.S.; providing requirements for continuing education in ethics; requiring a new certificateholder to provide proof of completion of certain curriculum courses; removing provisions relating to an option of taking an equivalency test in lieu of taking core curriculum classes; amending s. 489.115, F.S.; requiring applicants for initial issuance of a certificate or registration as a contractor to submit to criminal history records checks; requiring the Department of Business and Professional Regulation to submit the requests for criminal history records check to the Department of Law Enforcement; requiring the Department of Law Enforcement to return the results to the department; authorizing the Construction Industry Licensing Board to deny licensure to certain applicants; specifying matters the board must consider concerning licensure; prohibiting the denial of licensure based solely on a felony conviction or the status of the civil rights of the applicant; specifying that guidelines for determining financial stability may include minimum requirements for net worth, cash, and bonding; providing that a portion of financial requirements may be met by completing specified coursework; creating s. 553.382, F.S.; authorizing the placement of residential manufactured buildings that are certified by the Department of Community Affairs on certain mobile home lots; providing for application of state law governing mobile home park lot tenancies to any such housing unit placed on a mobile home lot; requiring the written approval of the owner of a mobile home park before the placement of any such housing unit on a mobile home lot; providing for taxation of such housing units as mobile homes; providing for payments to the Florida Mobile Home Relocation Trust Fund under certain circumstances; amending s. 489.113, F.S.; prohibiting the prevention of a licensed engineer or architect from contracting directly with a licensed contractor for the preparation of plans, specifications, or a master design manual when making an application for a building permit; prohibiting the requirement of site-specific drawings, specifications, or plans for certain structures; authorizing local code enforcement agencies to accept or reject plans prepared by

certain persons; defining the term “master design manual”; providing requirements regarding the preparation of such manuals; requiring that a master design manual contain certain information; requiring that such manuals be peer reviewed by a licensed engineer or architect who meets certain criteria; requiring that the reviewer be identified in the manual; providing that a licensed engineer or architect is not required for the preparation or use of certain design guides; exempting certain existing warehouses from requirements in the Florida Building Code concerning fire protection under certain conditions; providing an effective date.

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

Section 1. Subsection (2) and paragraph (a) of subsection (5) of section 468.609, Florida Statutes, are amended to read:

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

(2) A person may take the examination for certification as a building code inspector or plans examiner pursuant to this part if the person:

(a) Is at least 18 years of age.

(b) Is of good moral character.

(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 code 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 code inspection, or plans review;

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 code inspection, or plans review; ~~or~~

4. Currently holds a standard certificate as issued by the board and satisfactorily completes a building code 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; or.

5. Demonstrates a combination of the completion of an approved training program in the field of building codes inspection or plan review and a minimum of 2 years’ experience in the field of building codes inspection, plan review, fire code inspections and fire plans review of new buildings as a fire

safety inspector certified under s. 633.081(2), or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program of not less than 300 hours which is approved by the board in the chosen category of building codes inspection or plan review in the certification category sought with not less than 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program.

~~(d) After the Building Code Training Program is established under s. 553.841, demonstrates successful completion of the core curriculum approved by the Florida Building Commission, appropriate to the licensing category sought.~~

(5)(a) To obtain a standard certificate, an individual must pass an examination approved by the board which demonstrates that the applicant has fundamental knowledge of the state laws and codes relating to the construction of buildings for which the applicant has building code administration, plans examination, or building code inspection responsibilities. It is the intent of the Legislature that the examination approved for certification pursuant to this part be substantially equivalent to the examinations administered by the International Code Council Southern Building Code Congress International and the Council of American Building Officials.

Section 2. Subsection (4) is added to section 468.617, Florida Statutes, to read:

468.617 Joint building code inspection department; other arrangements.—

(4) Nothing in this part prohibits any building code inspector, plans examiner, or building code administrator holding a limited certificate who is employed by a jurisdiction within a small county as defined in s. 339.2818 from providing building code inspection, plans review, or building code administration services to another jurisdiction within a small county.

Section 3. Subsection (10) is added to section 468.619, Florida Statutes, to read:

468.619 Building code enforcement officials' bill of rights.—

(10) This bill of rights applies to disciplinary investigations and proceedings against licenses issued under this part and disciplinary investigations and proceedings relating to the official duties of an enforcement official. This bill of rights does not apply to disciplinary investigations and proceedings against other licenses that the enforcement official holds or disciplinary investigations and proceedings unrelated to the enforcement official's official duties.

Section 4. Paragraphs (f) and (g) of subsection (1) of section 468.621, Florida Statutes, are amended, and paragraphs (k) and (l) are added to that subsection, to read:

468.621 Disciplinary proceedings.—

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

(f) Making or filing a report or record ~~that which~~ the certificateholder knows to be false, or knowingly inducing another to file a false report or record, or knowingly failing to file a report or record required by state or local law, or knowingly impeding or obstructing such filing, or knowingly inducing another person to impede or obstruct such filing.

(g) Failing to properly enforce applicable building codes or permit requirements within this state which the certificateholder knows are applicable ~~or by~~ committing willful misconduct, gross negligence, gross misconduct, repeated negligence, or negligence resulting in a significant danger to life or property.

(k) Obstructing an investigation or providing or inducing another to provide forged documents, false forensic evidence, or false testimony to a local or state board or member thereof or to a licensing investigator.

(l) Accepting labor, services, or materials at no charge or at a noncompetitive rate from any person who performs work that is under the enforcement authority of the enforcement official and who is not an immediate family member of the enforcement official. The term “immediate family member” includes a spouse, child, parent, sibling, grandparent, aunt, uncle, or first cousin of the person or the person’s spouse or any person who resides in the primary residence of the enforcement official.

Section 5. Subsections (5) and (6) of section 468.627, Florida Statutes, are amended to read:

468.627 Application; examination; renewal; fees.—

(5) The certificateholder shall provide proof, in a form established by board rule, that the certificateholder has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate, including the specialized or advanced coursework approved by the Florida Building Commission, as part of the Building Code Training Program established pursuant to s. 553.841, appropriate to the licensing category sought. A minimum of 3 of the required 14 classroom hours must be on state law, rules, and ethics relating to professional standards of practice, duties, and responsibilities of the certificateholder. The board shall by rule establish criteria for approval of continuing education courses and providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

(6) Each certificateholder shall provide to the board proof of completion of the core curriculum courses, ~~or passing the equivalency test of the Building Code Training Program established by s. 553.841, within 2 years after commencement of the program.~~ Each new certificateholder shall provide to the board proof of completion of the core curriculum courses of the building

code training program established in s. 553.841 within the first 2-year period after initial licensure. Continuing education hours spent taking such core curriculum courses shall count toward the number required for license renewal. A licensee who passes the equivalency test in lieu of taking the core curriculum courses shall receive full credit for core curriculum course hours.

Section 6. Present subsection (6) of section 489.115, Florida Statutes, is renumbered as subsection (7) and amended, present subsection (7) of that section is renumbered as subsection (8), and a new subsection (6) is added to that section, to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(6) An applicant for initial issuance of a certificate or registration shall submit to a statewide criminal history records check through the Department of Law Enforcement. The Department of Business and Professional Regulation shall submit the requests for the criminal history records check to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall return the results to the department to determine if the applicant meets certification or registration requirements. If the applicant has been convicted of a felony, the board may deny licensure to the applicant based upon the severity of the crime, the relationship of the crime to contracting, or the potential for public harm. The board shall also, in denying or approving licensure, consider the length of time since the commission of the crime and the rehabilitation of the applicant. The board may not deny licensure to an applicant based solely upon a felony conviction or the applicant's failure to provide proof of restoration of civil rights.

~~(7)~~(6) An initial applicant shall, along with the application, and a certificateholder or registrant shall, upon requesting a change of status, submit to the board a credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant or certificateholder or registrant. The credit report required for the initial applicant shall be considered the minimum evidence necessary to satisfy the board that he or she is financially responsible to be certified, has the necessary credit and business reputation to engage in contracting in the state, and has the minimum financial stability necessary to avoid the problem of financial mismanagement or misconduct. The board shall, by rule, adopt guidelines for determination of financial stability, which may include minimum requirements for net worth, cash, and bonding for Division I certificateholders of no more than \$20,000 and for Division II certificateholders of no more than \$10,000. Fifty percent of the financial requirements may be met by completing a 14-hour financial responsibility course approved by the board.

Section 7. Section 553.382, Florida Statutes, is created to read:

553.382 Placement of certain housing.—Notwithstanding any other law or ordinance to the contrary, in order to expand the availability of affordable housing in this state, any residential manufactured building that is certified under this chapter by the Department of Community Affairs may be placed on a mobile home lot in a mobile home park, recreational vehicle park, or mobile home condominium, cooperative, or subdivision. Any such housing

unit placed on a mobile home lot is a mobile home for purposes of chapter 723 and, therefore, all rights, obligations, and duties under chapter 723 apply, including the specifics of the prospectus. However, a housing unit subject to this section may not be placed on a mobile home lot without the prior written approval of the park owner. Each housing unit subject to this section shall be taxed as a mobile home under s. 320.08(11) and is subject to payments to the Florida Mobile Home Relocation Fund under s. 723.06116.

Section 8. Subsection (9) of section 489.113, Florida Statutes, is amended to read:

489.113 Qualifications for practice; restrictions.—

~~(9)(a) Nothing in~~ This part ~~does not~~ shall be construed to prevent any contractor from acting as a prime contractor where the majority of the work to be performed under the contract is within the scope of his or her license ~~or and~~ from subcontracting to other licensed contractors that remaining work which is part of the project contracted.

(b) This part, chapter 471, chapter 481, or any other provision of law does not:

1. Prevent any licensed engineer or architect from contracting directly with a licensed contractor for the preparation of plans, specifications, or a master design manual addressing structural designs used to make an application for building permits.

2. Require a licensed engineer or architect, when preparing drawings, specifications, plans, or master design manuals for use by any licensed contractor, to prepare site-specific drawings, specifications, or plans for the design and construction of single-family and two-family dwellings; swimming pools, spas, or screened enclosures; or any other structure not exceeding 1,200 square feet or one story in height. For the purpose of issuing building permits, local building officials shall accept such drawings, specifications, or plans when submitted by any licensed contractor. Upon good cause shown, local government code enforcement agencies may accept or reject plans prepared by persons licensed under chapter 471, chapter 481, or this chapter.

As used in this section, the term “master design manual” means a restrictive design manual intended to be used to design, permit, and construct structures as described in this section. Any such manual must be prepared by a licensed engineer or architect and specifically detail the limits of its use, including, but not limited to, the structure type, size, materials, loading conditions, time limits, applicable codes, and associated criteria. The manual must also detail the required training for the contractor, engineer, or architect using the manual. All master design manuals must be peer reviewed by an independent licensed engineer or architect having no financial interest in the development of the manual or the construction of structures pursuant to the manual. The engineer or architect conducting the peer review must be identified in the manual.

(c) Notwithstanding anything in this chapter or any other provision of law, a licensed engineer or architect is not required for the preparation or use of any design guide adopted by the Florida Building Commission as part of the building code pursuant to s. 553.73.

Section 9. If an existing warehouse is expanded, the addition must comply with the requirements in chapter 9 of the Florida Building Code; however, the existing warehouse need not be updated to meet those requirements so long as it is in compliance with the Florida Building Code, 2001 edition, and with requirements concerning automatic sprinkler systems in section 903 of the Florida Building Code.

Section 10. This act shall take effect July 1, 2007.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.