

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/CS/SB 600

INTRODUCER: Regulated Industries Committee; Community Affairs Committee; and Senator Bennett

SUBJECT: Electronic Filing of Construction Plans

DATE: January 26, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.	Waters	Imhof	RI	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes. It provides an exemption from construction contracting requirements for an owner who installs, removes, or replaces solar panels on certain residences while acting as the contractor, allows for electronic signature, and requires a declaration statement by the owner that the issuing authority is not liable for inaccurate information submitted by the owner using the electronic permitting system. The bill further provides that an owner or contractor is not required to personally appear and provide a notarized signature when filing a building permit application for a solar project if certain conditions are met.

The bill substantially amends section 468.604, 489.103, and 713.135 of the Florida Statutes.

II. Present Situation:

Building Code Administrators and the Permitting Process

The Legislature deems it necessary in the interest of public health and safety to regulate the practice of building code administration and inspection in this state.¹ “Building code administrators” or “building officials” are the local government employees charged with building construction regulation responsibilities. These responsibilities are linked to the permitting process and include plan review, enforcement, and the inspection of building construction, remodeling, and demolition. Officials verify compliance with construction codes as required by state law or municipal or county ordinance relating to plumbing, mechanical, electrical, gas, fire prevention, energy, and accessibility.²

Section 468.604(1), F.S., requires that construction plans be reviewed by a building code administrator or building official before the issuance of any building, system installation, or other construction permit. In addition, the administrator or official must also inspect each phase of construction where a building or other construction permit has been issued.³

To obtain a permit, the Florida Building Code provides that an applicant shall first file an application in writing on a form furnished by the appropriate building department for the intended purpose.⁴ Permit application forms shall be in a format prescribed by a local administrative board, if applicable, and must comply with the requirements of s. 713.135(5) and (6), F.S.

Section 713.135(5), F.S. requires building permit applications to include the names and addresses of property owners and contractors and a description sufficient to identify the property. Section 713.135(6), F.S., delineates the format for building permit applications which include owner and contractor signatures as well as notarization.⁵ The section also provides that an authority responsible for issuing building permits may accept a building permit application in an electronic format, as prescribed by the authority. Electronically submitted permits must contain an additional “owner’s electronic submission statement.”⁶

Construction documents outlining floor, site, and foundation plans, as well as other data, are submitted in one or more sets with each application for a permit. Electronic media versions of these documents are allowed to be submitted when approved by the building official.⁷

Construction Contracting

Section 489.103(7), F.S., allows owners of property, when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors, from state construction licensure requirements.

¹ Section 468.601, F.S.

² Section 468.603(1), F.S.

³ Section 468.604(1), F.S.

⁴ Section 105.3, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).

⁵ Section 117.021(1), F.S., provides that “any document requiring notarization may be notarized electronically.”

⁶ Section 713.135(6)(b), F.S.

⁷ Sections 106.1.1 and 106.3.5, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).

Specifically, s. 489.103(7)(a), F.S., authorizes owners of property to build or improve farm buildings or one-family or two-family residences on the owners property for the sole use of the owner. It also exempts the practice of building or improving commercial buildings at costs not to exceed \$75,000, for use of such owners. The owner may not sell or lease the building or residence within one year. If proof of sale or lease, or offering of sale or lease, is provided of any such structure by the owner-builder within 1 year after completion, it shall be presumed that the construction was undertaken for purposes of sale or lease.

Section 489.103(7)(b), F.S., authorizes owners of property repair or replace wood shakes, asphalt, or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of such owner or tenant of the owner so long as the property is not offered for sale within 1 year after completion of the work and when the property has been damaged by natural causes from an event recognized as an emergency situation designated by executive order issued by the Governor declaring the existence of a state of emergency as a result and consequence of a serious threat posed to the public health, safety, and property in this state.

Section 489.103(7), F.S., does not exempt any person who is employed by or has a contract with such owner and who acts in the capacity of a contractor. The owner may not delegate the owner's responsibility to directly supervise all work to any other person unless that person is registered or certified under this ch. 489, F.S., and the work being performed is within the scope of that person's license. To qualify for exemption under subsection (7), an owner must personally appear and sign the building permit application and must satisfy local permitting agency requirements, if any, proving that the owner has complete understanding of their obligations under law as specified in the disclosure statement.

Electronic Signatures

The intent of the "Electronic Signature Act of 1996," is to facilitate economic development and efficient delivery of government services through electronic messages.⁸ The act also aims to foster the development of electronic commerce through the use of electronic signatures. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.⁹

Part II, ch. 668, F.S., contains the "Uniform Electronic Transaction Act" which sets forth requirements for the validation and effect of electronic records and electronic signatures. It also provides for agreement variation in order to facilitate, but not require, the use of electronic means in conducting transactions.¹⁰

Statutorily Authorized Electronic Submission of Documents and Seals

Certain professions regulated by the state have statutory authority to electronically submit documents and to utilize electronic seals. These include:

- architects,¹¹

⁸ See s. 668.002, F.S.

⁹ Section 668.004, F.S.

¹⁰ See Comm. on Commerce and Economic Opportunities, The Florida Senate, *CS/CS/SB 1334 Electronic Commerce*, Florida Senate 2000 Session Summary, available at <http://archive.flsenate.gov/publications/2000/senate/reports/summaries/pdf/Comm.pdf>.

¹¹ Section 481.221(2), F.S.

- engineers,¹²
- interior designers,¹³
- landscape architects,¹⁴ and
- land surveyors and mappers.¹⁵

In addition, in 2009, the Legislature required each clerk of court to implement an electronic filing process in an effort to reduce judicial costs, increase timeliness in the processing of cases, and improve judicial case management.¹⁶

III. Effect of Proposed Changes:

Section 1 creates subsection (4) of s. 468.604, F.S., specifying that should a building code administrator or building official provide for electronic filing, then construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with ss. 668.001-668.006 and transmitted electronically to the building code administrator or building official for approval.

Section 2 amends s. 489.103(7), F.S., to include paragraph (a)(3), which creates a licensure exemption for property owners for the installment, uninstalment, or replacement of solar panels on one-family, two-family, or three-family residences for the occupancy or use of such owner or tenant of the owner.

The bill waives the notary and appearance requirement if the building permit application is submitted electronically to the permitting authority and the owner certifies the application and disclosure statement using the permitting authority's electronic confirmation system.

The bill requires property owners who obtain an owner-builder permit for a solar project to submit an additional statement testifying that the information provided within the permit application is true and correct.

Section 3 amends s. 713.135(6)(b), F.S., removing the notary requirement for certain solar project documents submitted electronically. Section 713.135(d) is created to require a declaration statement by the owner that the issuing authority is not liable for inaccurate information submitted by the owner using the electronic permitting system.

Section 4 of the bill provides an effective date of July 1, 2012.

¹² Section 471.025(1), F.S.

¹³ Section 481.221(3), F.S.

¹⁴ Section 481.321(1), F.S.

¹⁵ Section 472.025(1), F.S.

¹⁶ Section 28.22205, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons or businesses engaged in various phases of building construction, repair, remodeling or demolition may experience cost savings as a result of efficiencies accruing from electronic filing. Costs associated with the production and delivery of hard copy documents could be reduced. In addition, owners of property may experience cost savings by installing solar panels on their own property, instead of hiring a contractor.

C. Government Sector Impact:

Local authorities that provide for and accept electronic transmissions of various construction documents may realize procedural and document storage efficiencies and improve the timeliness of permit processing. The bill does not require electronic filing; therefore, any expenditures to facilitate this option would be discretionary.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Regulated Industries on January 26, 2012:

Provides an exemption from construction contracting requirements for an owner who installs, removes, or replaces solar panels on certain residences while acting as the contractor, allows for electronic signature, and requires a declaration statement by the owner that the issuing authority is not liable for inaccurate information submitted by the owner using the electronic permitting system. The bill further provides that an owner or contractor is not required to personally appear and provide a notarized signature when filing a building permit application for a solar project if certain conditions are met.

CS by Community Affairs on December 5, 2011:

Provides a technical amendment.

B. Amendments:

None.