

By the Committees on Regulated Industries; and Community Affairs; and Senator Bennett

580-02431-12

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1 A bill to be entitled
2 An act relating to electronic filing of construction
3 plans; amending s. 468.604, F.S.; providing a
4 legislative finding; providing for certain documents
5 to be electronically signed and sealed by the licensee
6 and electronically transmitted to a building code
7 administrator or building official for approval;
8 amending s. 489.103, F.S.; providing an exemption from
9 construction contracting requirements for an owner who
10 installs, removes, or replaces solar panels on certain
11 residences while acting as the contractor; providing
12 for an electronic signature on the permit application;
13 requiring the building permit application and
14 disclosure statement to include a declaration
15 statement by the owner; providing that the issuing
16 authority is not liable in any civil action for
17 inaccurate information submitted by the owner using
18 the authority's electronic permitting system; amending
19 s. 713.135, F.S.; providing that an owner or
20 contractor is not required to personally appear and
21 provide a notarized signature when filing a building
22 permit application for a solar project if certain
23 conditions are met; providing that the issuing
24 authority is not liable in any civil action for
25 inaccurate information submitted by the owner using
26 the authority's electronic permitting system;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (4) is added to section 468.604, Florida Statutes, to read:

468.604 Responsibilities of building code administrators, plans examiners, and inspectors.—

(4) The Legislature finds that the electronic filing of construction plans will increase governmental efficiency, reduce costs, and increase timeliness of processing permits. If the building code administrator or building official provides 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. Subsection (7) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(7) (a) Owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors:

1.-(a) When building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed \$75,000, on such property for the occupancy or use of such owners and not offered for sale or lease. In an action brought under this part, proof of the sale or lease, or offering for sale or lease, of any such structure by the owner-builder

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59 within 1 year after completion of same creates a presumption
60 that the construction was undertaken for purposes of sale or
61 lease.

62 2.~~(b)~~ When repairing or replacing wood shakes or asphalt or
63 fiberglass shingles on one-family, two-family, or three-family
64 residences for the occupancy or use of such owner or tenant of
65 the owner and not offered for sale within 1 year after
66 completion of the work and when the property has been damaged by
67 natural causes from an event recognized as an emergency
68 situation designated by executive order issued by the Governor
69 declaring the existence of a state of emergency as a result and
70 consequence of a serious threat posed to the public health,
71 safety, and property in this state.

72 3. When installing, uninstalling, or replacing solar panels
73 on one-family, two-family, or three-family residences for the
74 occupancy or use of such owner or tenant of the owner.

75 (b) This subsection does not exempt any person who is
76 employed by or has a contract with such owner and who acts in
77 the capacity of a contractor. The owner may not delegate the
78 owner's responsibility to directly supervise all work to any
79 other person unless that person is registered or certified under
80 this part and the work being performed is within the scope of
81 that person's license. For the purposes of this subsection, the
82 term "owners of property" includes the owner of a mobile home
83 situated on a leased lot.

84 (c) To qualify for exemption under this subsection, an
85 owner must personally appear and sign the building permit
86 application and must satisfy local permitting agency
87 requirements, if any, proving that the owner has a complete

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88 understanding of the owner's obligations under the law as
89 specified in the disclosure statement in this section. An
90 owner's notarized signature or personal appearance to sign the
91 permit application is not required for a solar project, as
92 described in subparagraph (a)3., if the building permit
93 application is submitted electronically to the permitting
94 authority and the owner certifies the application and disclosure
95 statement using the permitting authority's electronic
96 confirmation system. If any person violates the requirements of
97 this subsection, the local permitting agency shall withhold
98 final approval, revoke the permit, or pursue any action or
99 remedy for unlicensed activity against the owner and any person
100 performing work that requires licensure under the permit issued.
101 The local permitting agency shall provide the person with a
102 disclosure statement in substantially the following form:

103
104 DISCLOSURE STATEMENT
105

106 1. I understand that state law requires construction
107 to be done by a licensed contractor and have applied
108 for an owner-builder permit under an exemption from
109 the law. The exemption specifies that I, as the owner
110 of the property listed, may act as my own contractor
111 with certain restrictions even though I do not have a
112 license.

113
114 2. I understand that building permits are not required
115 to be signed by a property owner unless he or she is
116 responsible for the construction and is not hiring a

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117 licensed contractor to assume responsibility.

118

119 3. I understand that, as an owner-builder, I am the
120 responsible party of record on a permit. I understand
121 that I may protect myself from potential financial
122 risk by hiring a licensed contractor and having the
123 permit filed in his or her name instead of my own
124 name. I also understand that a contractor is required
125 by law to be licensed in Florida and to list his or
126 her license numbers on permits and contracts.

127

128 4. I understand that I may build or improve a one-
129 family or two-family residence or a farm outbuilding.
130 I may also build or improve a commercial building if
131 the costs do not exceed \$75,000. The building or
132 residence must be for my own use or occupancy. It may
133 not be built or substantially improved for sale or
134 lease. If a building or residence that I have built or
135 substantially improved myself is sold or leased within
136 1 year after the construction is complete, the law
137 will presume that I built or substantially improved it
138 for sale or lease, which violates the exemption.

139

140 5. I understand that, as the owner-builder, I must
141 provide direct, onsite supervision of the
142 construction.

143

144 6. I understand that I may not hire an unlicensed
145 person to act as my contractor or to supervise persons

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146 working on my building or residence. It is my
147 responsibility to ensure that the persons whom I
148 employ have the licenses required by law and by county
149 or municipal ordinance.

151 7. I understand that it is a frequent practice of
152 unlicensed persons to have the property owner obtain
153 an owner-builder permit that erroneously implies that
154 the property owner is providing his or her own labor
155 and materials. I, as an owner-builder, may be held
156 liable and subjected to serious financial risk for any
157 injuries sustained by an unlicensed person or his or
158 her employees while working on my property. My
159 homeowner's insurance may not provide coverage for
160 those injuries. I am willfully acting as an owner-
161 builder and am aware of the limits of my insurance
162 coverage for injuries to workers on my property.

164 8. I understand that I may not delegate the
165 responsibility for supervising work to a licensed
166 contractor who is not licensed to perform the work
167 being done. Any person working on my building who is
168 not licensed must work under my direct supervision and
169 must be employed by me, which means that I must comply
170 with laws requiring the withholding of federal income
171 tax and social security contributions under the
172 Federal Insurance Contributions Act (FICA) and must
173 provide workers' compensation for the employee. I
174 understand that my failure to follow these laws may

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175 subject me to serious financial risk.

176

177 9. I agree that, as the party legally and financially
178 responsible for this proposed construction activity, I
179 will abide by all applicable laws and requirements
180 that govern owner-builders as well as employers. I
181 also understand that the construction must comply with
182 all applicable laws, ordinances, building codes, and
183 zoning regulations.

184

185 10. I understand that I may obtain more information
186 regarding my obligations as an employer from the
187 Internal Revenue Service, the United States Small
188 Business Administration, the Florida Department of
189 Financial Services, and the Florida Department of
190 Revenue. I also understand that I may contact the
191 Florida Construction Industry Licensing Board at
192 ...(telephone number)... or ...(Internet website
193 address)... for more information about licensed
194 contractors.

195

196 11. I am aware of, and consent to, an owner-builder
197 building permit applied for in my name and understand
198 that I am the party legally and financially
199 responsible for the proposed construction activity at
200 the following address: ...(address of property)....

201

202 12. I agree to notify ...(issuer of disclosure
203 statements)... immediately of any additions,

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204 deletions, or changes to any of the information that I
205 have provided on this disclosure.

206

207 Licensed contractors are regulated by laws designed to
208 protect the public. If you contract with a person who
209 does not have a license, the Construction Industry
210 Licensing Board and Department of Business and
211 Professional Regulation may be unable to assist you
212 with any financial loss that you sustain as a result
213 of a complaint. Your only remedy against an unlicensed
214 contractor may be in civil court. It is also important
215 for you to understand that, if an unlicensed
216 contractor or employee of an individual or firm is
217 injured while working on your property, you may be
218 held liable for damages. If you obtain an owner-
219 builder permit and wish to hire a licensed contractor,
220 you will be responsible for verifying whether the
221 contractor is properly licensed and the status of the
222 contractor's workers' compensation coverage.

223

224 Before a building permit can be issued, this
225 disclosure statement must be completed and signed by
226 the property owner and returned to the local
227 permitting agency responsible for issuing the permit.
228 A copy of the property owner's driver license, the
229 notarized signature of the property owner, or other
230 type of verification acceptable to the local
231 permitting agency is required when the permit is
232 issued.

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234 Signature: ...(signature of property owner)....

235 Date: ...(date)....

236

237 (d) A building permit application and disclosure statement
238 electronically submitted by an owner to the authority for a
239 solar project, as described in subparagraph (a)3., must also
240 contain the following additional statement:

241

242 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty
243 of perjury, I declare that all the information
244 contained in this building permit application and the
245 representations made in the required disclosure
246 statement are true and correct.

247

248 (e) A permitting authority that accepts a building permit
249 application and disclosure statement in an electronic format
250 from an owner who is exempt pursuant to this subsection and who
251 applies for a permit relating to a solar project, as described
252 in subparagraph (a)3., is not liable in any civil action for
253 inaccurate information submitted by the owner using the
254 authority's electronic confirmation system.

255

256 Section 3. Paragraph (b) of subsection (6) of section
257 713.135, Florida Statutes, is amended, and paragraph (d) is
added to that subsection, to read:

258 713.135 Notice of commencement and applicability of lien.-

259 (6)

260 (b)1. Consistent with the requirements of paragraph (a), an
261 authority responsible for issuing building permits under this

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262 section may accept a building permit application in an
263 electronic format, as prescribed by the authority. Building
264 permit applications submitted to the authority electronically
265 must contain the following additional statement in lieu of the
266 requirement in paragraph (a) that a signed, sworn, and notarized
267 signature of the owner or agent and the contractor be part of
268 the owner's affidavit:

269
270 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty
271 of perjury, I declare that all the information
272 contained in this building permit application is true
273 and correct.

274
275 2. An owner or contractor is not required to personally
276 appear and provide a notarized signature when filing a building
277 permit application for a solar project if the building permit
278 application is electronically submitted to the permitting
279 authority and the owner or contractor certifies that the
280 application is consistent with this paragraph using the
281 permitting authority's electronic confirmation system. For
282 purposes of this subparagraph, the term "solar project" means
283 installing, uninstalling, or replacing solar panels on single-
284 family residential property, multifamily residential property,
285 or commercial property.

286 (d) An authority responsible for issuing building permits
287 which accepts building permit applications in an electronic
288 format for solar projects, as defined in subparagraph (b)2., is
289 not liable in any civil action for inaccurate information
290 submitted by an owner or contractor using the authority's

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291 electronic confirmation system.

292 Section 4. This act shall take effect July 1, 2012.