

1 A bill to be entitled
2 An act relating to regulation of professions
3 and occupations; amending s. 455.213, F.S.,
4 relating to general licensing provisions;
5 providing for direct payment of
6 organization-related or vendor-related fees
7 associated with the examination to the
8 organization or vendor; providing that passing
9 a required examination does not entitle a
10 person to licensure if the person is not
11 otherwise qualified; amending s. 455.217, F.S.,
12 relating to examinations; authorizing the
13 contracting for examinations and services
14 related to examinations; providing requirements
15 with respect to examinations developed by the
16 department or a contracted vendor and to
17 national examinations; amending s. 455.225,
18 F.S.; providing that complaints or actions
19 against unlicensed persons or persons operating
20 outside their scope of practice are not
21 confidential; amending s. 489.109, F.S.;
22 revising language relating to fees applicable
23 to regulation of construction contracting, to
24 conform to changes authorizing contracted
25 examinations; amending s. 489.111, F.S.;
26 revising provisions relating to licensure by
27 examination; amending s. 489.113, F.S.;
28 authorizing a local construction regulation
29 board to deny, suspend, or revoke the authority
30 of a certified contractor to obtain a building
31 permit or limit such authority to obtaining a

1 permit or permits with specific conditions;
2 providing for notices of noncompliance for
3 minor violations of regulatory law; amending s.
4 489.114, F.S., relating to evidence of workers'
5 compensation coverage; conforming terminology;
6 amending s. 489.115, F.S.; providing for
7 licensure by endorsement reciprocity with other
8 jurisdictions; providing for rules covering
9 requirements relating to the content of
10 continuing education courses and standards for
11 approval of continuing education providers;
12 requiring submission of a credit report
13 reflecting financial responsibility as a
14 prerequisite to the initial issuance of a
15 certificate; amending s. 489.119, F.S.;
16 requiring business organizations other than
17 sole proprietorships to secure a certificate of
18 authority rather than registration or
19 certification; amending s. 489.1195, F.S.;
20 specifying requirements for financially
21 responsible officers; amending s. 489.127,
22 F.S., relating to prohibitions and penalties;
23 including reference to certificates of
24 authority; specifying that a local occupational
25 license issued under authority of chapter 205,
26 F.S., is not a license for purposes of part I
27 of chapter 489, F.S., relating to construction
28 contracting; amending s. 489.129, F.S.,
29 relating to disciplinary proceedings; including
30 reference to certificates of authority;
31 prohibiting issuance or renewal of licensure

1 until restitution is paid in full, if
2 restitution has been ordered, or until all
3 terms and conditions of the final order have
4 been satisfied; amending s. 489.131, F.S.;
5 providing applicability of the part to the
6 authority of local authorities to issue and the
7 requirement of specified contractors to obtain
8 local occupational license tax certificates;
9 providing for payment of local bonds into the
10 Construction Industry Recovery Fund; providing
11 for issuance of notices of noncompliance for
12 minor violations of regulatory law; amending s.
13 489.132, F.S., relating to prohibited acts by
14 unlicensed principals; conforming terminology;
15 creating ss. 489.1455 and 489.5335, F.S.;
16 providing requirements for local reciprocity of
17 licensed journeymen; providing for a fee;
18 creating s. 489.146, F.S.; requiring
19 privatization of services of the Department of
20 Business and Professional Regulation; providing
21 requirements and rulemaking authority for such
22 purpose; providing effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsections (1) and (2) of section 455.213,
27 Florida Statutes, are amended to read:

28 455.213 General licensing provisions -

29 (1) Any person desiring to be licensed shall apply to
30 the department in writing ~~to take the appropriate examination.~~
31 The application for licensure shall be made on a form prepared

1 and furnished by the department and shall be supplemented as
2 needed to reflect any material change in any circumstance or
3 condition stated in the application which takes place between
4 the initial filing of the application and the final grant or
5 denial of the license and which might affect the decision of
6 the agency. In cases where a person applies or schedules
7 directly with a national examination organization or
8 examination vendor to take an examination required for
9 licensure, any organization or vendor related fees associated
10 with the examination may be paid directly to the organization
11 or vendor.

12 (2) Before the issuance of any license, the department
13 may charge an initial license fee as determined by rule of the
14 applicable board or, if no such board exists, by rule of the
15 department. Upon receipt of the appropriate license fee,
16 except as provided in subsection (3), the department shall
17 issue a license to any person certified by the appropriate
18 board, or its designee, or the department when there is no
19 board, as having met the applicable requirements imposed by
20 law or rule. However, an applicant who is not otherwise
21 qualified for licensure is not entitled to licensure solely
22 based on a passing score on a required examination.

23 Section 2. Section 455.217, Florida Statutes, is
24 amended to read:

25 455.217 Examinations.-- This section shall be read in
26 conjunction with the appropriate practice act associated with
27 each regulated profession under this chapter.

28 (1) The Division of Technology, Licensure, and Testing
29 of the Department of Business and Professional Regulation
30 shall provide, contract or approve services for the
31 development, preparation, and administration, scoring, score

1 reporting and evaluation of all examinations. The division
 2 shall seek the advice of the appropriate board in providing
 3 such services.

4 (a) The department, acting in conjunction with the
 5 Division of Technology, Licensure, and Testing and the
 6 Division of Real Estate, as appropriate, shall ensure that
 7 ~~the~~ examinations adequately and reliably measure an
 8 applicant's ability to practice the profession regulated by
 9 the department ~~and shall seek the advice of the appropriate~~
 10 ~~board in the preparation and administration of the~~
 11 examinations. After an examination developed or approved by
 12 the department has been administered, the board or department
 13 may reject any question which does not reliably measure the
 14 general areas of competency specified in the rules of the
 15 board or department, when there is no board. The department
 16 shall use professional testing services ~~to~~ for the
 17 development, preparation, and evaluation of ~~prepare,~~
 18 ~~administer, grade, and evaluate the~~ examinations, when such
 19 services are available and approved by the board.

20 (b) For each examination developed by the department
 21 or contracted vendor, to the extent not otherwise specified by
 22 statute, the board or, when there is no board, the department
 23 when there is no board, shall by rule specify the general
 24 areas of competency to be covered by the each examination, the
 25 relative weight to be assigned in grading each area tested,
 26 and the score necessary to achieve a passing grade, and the
 27 fees, where applicable, to cover the actual cost for any
 28 purchase, development and administration of the required
 29 examination. However, statutory fee caps in each practice act
 30 shall apply. This subsection does not apply to national
 31

1 examinations approved and administered pursuant to paragraph
 2 (d).

3 (c) If a practical examination is deemed to be
 4 necessary, ~~the~~ rules shall specify the criteria by which
 5 examiners are to be selected, the grading criteria to be used
 6 by the examiner, the relative weight to be assigned in grading
 7 each criterion, and the score necessary to achieve a passing
 8 grade. When a mandatory standardization exercise for a
 9 practical examination is required by law, the board may
 10 conduct such exercise. Therefore, board members may serve as
 11 examiners at a practical examination with the consent of the
 12 board.

13 ~~(d)(c)~~ A board, or the department when there is no
 14 board, may approve by rule the use of any national examination
 15 which the department has certified as meeting requirements of
 16 national examinations and generally accepted testing standards
 17 pursuant to department rules. Providers of examinations,
 18 which may be either profit or non-profit entities, seeking
 19 certification by the department shall pay the actual costs
 20 incurred by the department in making a determination regarding
 21 the certification.The department shall use any national
 22 examination which is available, certified by the department,
 23 and ~~which is~~ approved by the board. The name and number of a
 24 candidate may be provided to a national contractor for the
 25 limited purpose of preparing the grade tape and information to
 26 be returned to the board or department or, to the extent
 27 otherwise specified by rule, the candidate may apply directly
 28 to the vendor of the national examination. The department may
 29 delegate to the board the duty to provide and administer the
 30 examination. Any national examination approved by a board, or
 31 the department when there is no board, prior to October 1,

1 1997, is deemed certified under this paragraph. Any licensing
 2 or certification examination that is not developed or
 3 administered by the department in house or provided as a
 4 national examination shall be competitively bid.

5 (e)~~(d)~~The department shall adopt rules regarding the
 6 security and monitoring of examinations. In order to maintain
 7 the security of examinations, the department may employ the
 8 procedures set forth in s. 455.228 to seek fines and
 9 injunctive relief against an examinee who violates the
 10 provisions of s. 455.2175 or the rules adopted pursuant to
 11 this paragraph. The department, or any agent thereof, may, for
 12 the purposes of investigation, confiscate any written,
 13 photographic, or recording material or device in the
 14 possession of the examinee at the examination site which the
 15 department deems necessary to enforce such provisions or
 16 rules.

17 (f)~~(e)~~ If the professional board with jurisdiction
 18 over an examination concurs, the department may, for a fee,
 19 share with any other state's licensing authority an
 20 examination developed by or for the department unless
 21 prohibited by a contract entered into by the department for
 22 development or purchase of the examination. The department,
 23 with the concurrence of the appropriate board, shall establish
 24 guidelines that ensure security of a shared exam and shall
 25 require that any other state's licensing authority comply with
 26 those guidelines. Those guidelines shall be approved by the
 27 appropriate professional board. All fees paid by the user
 28 shall be applied to the department's examination and
 29 development program for professions regulated by this chapter.
 30 All fees paid by the user for professions not regulated by
 31 this chapter shall be applied to offset the fees for the

1 development and administration of that profession's
 2 examination. If both a written and a practical examination
 3 are given, an applicant shall be required to retake only the
 4 portion of the examination for ~~on~~ which he failed to achieve a
 5 passing grade, if he successfully passes that portion within a
 6 reasonable time of his passing the other portion.

7 (2) For each examination developed by the department
 8 or a contracted vendor, the board, or the department, when
 9 there is no board, the department shall make rules providing
 10 for reexamination of any applicants who fail an have failed
 11 the examination developed by the department or a contracted
 12 vendor. If both a written and a practical examination are
 13 given, an applicant shall be required to retake only the
 14 portion of the examination for ~~on~~ which he failed to achieve
 15 a passing grade, if he successfully passes that portion within
 16 a reasonable time, as determined by rule of the board, or
 17 department when there is no board, of his passing the other
 18 portion.

19 (3) Except for national examinations approved and
 20 administered pursuant to paragraph(1)(d), the department
 21 shall provide procedures for applicants who have taken and
 22 failed an examination developed by the department or a
 23 contracted vendor to review their examination questions,
 24 answers, papers, grades and grading key for the questions the
 25 candidate answered incorrectly or, if not feasible, the parts
 26 of the examination failed. Applicants shall bear the actual
 27 cost for the department to provide examination review pursuant
 28 to this subsection. ~~The board or, when there is no board, the~~
 29 ~~department shall make available an examination review~~
 30 ~~procedure for applicants and charge an examination review fee~~
 31 ~~not to exceed \$75 per review. Unless prohibited or limited by~~

1 ~~rules implementing security or access guidelines of national~~
 2 ~~examinations, the applicant is entitled to review his~~
 3 ~~examination questions, answers, papers, grades, and grading~~
 4 ~~key.~~ An applicant may waive in writing the confidentiality of
 5 his examination grades.

6 (4)(3) For each examination developed or administered
 7 by the department or a contracted vendor, ~~The department shall~~
 8 ~~make~~ an accurate record of each applicant's examination
 9 questions, answers, papers, grades, and grading key. ~~The~~
 10 ~~department shall be kept~~ keep such record for a period of not
 11 less than 2 years immediately following the examination, and
 12 such record shall thereafter be maintained or destroyed as
 13 provided in chapters 119 and 257 . This subsection does not
 14 apply to national examinations approved and administered
 15 pursuant to paragraph (1)(d).

16 (5)(4) Meetings and records of meetings of any member
 17 of the department or of any board or commission within the
 18 department held for the exclusive purpose of creating or
 19 reviewing licensure examination questions or proposed
 20 examination questions are confidential and exempt from ss.
 21 119.07(1) and 286.011. However, this exemption shall not
 22 affect the right of any person to review an examination as
 23 provided in subsection (3)(2).

24 (6)(5) For examinations developed by the department or
 25 a contracted vendor, each board, or the department, when there
 26 is no board, may provide licensure examinations in an
 27 applicant's native language. Applicants for examination or
 28 reexamination pursuant to this subsection shall bear the full
 29 cost for the department's development, preparation,
 30 administration, grading, and evaluation of any examination in
 31 a language other than English. Requests for translated

1 examinations must be on file in the board office, or with the
2 department when there is no board, at least 6 months prior to
3 the scheduled examination. When determining whether it is in
4 the public interest to allow the examination to be translated
5 into a language other than English, the board, or the
6 department when there is no board, shall consider the
7 percentage of the population who speak the applicant's native
8 language.

9 (7)~~(6)~~In addition to meeting any other requirements
10 for licensure by examination or by endorsement, an applicant
11 may be required by a board, or by the department , if there is
12 no board, to pass an examination pertaining to state laws and
13 rules applicable to the practice of the profession regulated
14 by that board or by the department.

15 Section 3. Subsections (3), and (10) of section
16 455.225, Florida Statutes, 1996 Supplement, are amended to
17 read:

18 455.225 Disciplinary proceedings.--Disciplinary
19 proceedings for each board shall be within the jurisdiction of
20 the department or the Agency for Health Care Administration,
21 as appropriate.

22 (3)(a) As an alternative to the provisions of
23 subsections (1) and (2), when a complaint is received, the
24 department or the agency may provide a licensee with a notice
25 of noncompliance for an initial offense of a minor violation.
26 A violation is a minor violation if it does not demonstrate a
27 serious inability to practice the profession, result in
28 economic or physical harm to a person, or adversely affect the
29 public health, safety, or welfare or create a significant
30 threat of such harm.Each board, or the department or the
31 agency if there is no board, shall establish by rule those

1 ~~minor violations which are minor violations~~ under this
 2 ~~provision which do not endanger the public health, safety, and~~
 3 ~~welfare and which do not demonstrate a serious inability to~~
 4 ~~practice the profession.~~ Failure of a licensee to take action
 5 in correcting the violation within 15 days after notice may
 6 result in the institution of regular disciplinary proceedings.

7 (b) The department may issue a notice of noncompliance
 8 for an initial offense of a minor violation, notwithstanding a
 9 board's failure to designate a particular minor violation by
 10 rule as provided in paragraph (a).

11 (10) The complaint and all information obtained
 12 pursuant to the investigation by the department or the Agency
 13 for Health Care Administration are confidential and exempt
 14 from s. 119.07(1) until 10 days after probable cause has been
 15 found to exist by the probable cause panel or by the
 16 department or the agency, or until the regulated professional
 17 or subject of the investigation waives his privilege of
 18 confidentiality, whichever occurs first. However, this
 19 exemption does not apply to actions against unlicensed persons
 20 pursuant to s. 455.228 or the applicable practice act. Upon
 21 completion of the investigation and pursuant to a written
 22 request by the subject, the department or the agency shall
 23 provide the subject an opportunity to inspect the
 24 investigative file or, at the subject's expense, forward to
 25 the subject a copy of the investigative file. Notwithstanding
 26 s. 455.241, the subject may inspect or receive a copy of any
 27 expert witness report or patient record connected with the
 28 investigation, if the subject agrees in writing to maintain
 29 the confidentiality of any information received under this
 30 subsection until 10 days after probable cause is found and to
 31 maintain the confidentiality of patient records pursuant to s.

1 455.241. The subject may file a written response to the
2 information contained in the investigative file. Such
3 response must be filed within 20 days, unless an extension of
4 time has been granted by the department or the agency. This
5 subsection does not prohibit the department or the Agency for
6 Health Care Administration from providing such information to
7 any law enforcement agency or to any other regulatory agency.

8 Section 4. Subsection (1) of section 489.109, Florida
9 Statutes, is amended to read:

10 489.109 Fees.--

11 (1) The board, by rule, shall establish reasonable
12 fees to be paid for applications, ~~examination~~, certification
13 and renewal, registration and renewal, and recordmaking and
14 recordkeeping. The fees shall be established as follows:

15 (a) With respect to an applicant for a certificate,
16 the initial application ~~and examination~~ fee may not exceed
17 \$150, and, if an examination cost is included in the
18 application fee, the combined amount may not exceed \$350., ~~and~~
19 The initial certification fee and the renewal fee may not
20 exceed \$200. However, any applicant who seeks certification
21 under this part by taking a practical examination must pay as
22 an examination fee the actual cost incurred by the department
23 in developing, preparing, administering, scoring, score
24 reporting, and evaluating in conducting the examination, if
25 the examination is conducted by the department.

26 (b) With respect to an applicant for registration, the
27 initial application fee may not exceed \$100, and the initial
28 registration fee and the renewal fee may not exceed \$200.

29 (c) The board, by rule, may establish delinquency
30 fees, not to exceed the applicable renewal fee for renewal
31

1 applications made after the expiration date of the certificate
2 or registration.

3 (d) The board, by rule, may establish a fee for
4 transfer of a certificate of authority ~~or registration~~ from
5 one business organization to another, not to exceed the
6 applicable renewal fee.

7 (e) The board, by rule, shall impose a renewal fee for
8 an inactive status certificate or registration, not to exceed
9 the renewal fee for an active status certificate or
10 registration. Neither the inactive certification fee nor the
11 inactive registration fee may exceed \$50. The board, by rule,
12 may provide for a different fee for inactive status where such
13 status is sought by a building code administrator, plans
14 examiner, or inspector certified pursuant to part XIII of
15 chapter 468 who is employed by a local government and is not
16 allowed by the terms of such employment to maintain a
17 certificate on active status issued pursuant to this part.

18 (f) The board, by rule, shall impose an additional
19 late fee on a delinquent status certificateholder or
20 registrant when such certificateholder or registrant applies
21 for active or inactive status.

22 (g) The board, by rule, shall impose an additional
23 fee, not to exceed the applicable renewal fee, which
24 reasonably reflects the costs of processing a
25 certificateholder's or registrant's request to change
26 licensure status at any time other than at the beginning of a
27 licensure cycle.

28 Section 5. Section 489.111, Florida Statutes, is
29 amended to read:

30 489.111 Licensure by examination ~~Examinations~~.--

31

1 (1) Any person who desires to be certified shall apply
2 to the department in writing ~~to take the certification~~
3 ~~examination.~~

4 (2) A person shall be eligible for licensure by
5 ~~entitled to take the examination for the purpose of~~
6 ~~determining whether he is qualified to engage in contracting~~
7 ~~throughout this state~~ if the person:

8 (a) Is 18 years of age;

9 (b) Is of good moral character; and

10 (c) Meets eligibility requirements according to one of
11 the following criteria:

12 1. Has received a baccalaureate degree from an
13 accredited 4-year college in the appropriate field of
14 engineering, architecture, or building construction and has 1
15 year of proven experience in the category in which the person
16 seeks to qualify. For the purpose of this part, a minimum of
17 2,000 man-hours shall be used in determining full-time
18 equivalency.

19 2. Has a total of at least 4 years of active
20 experience as a workman who has learned his trade by serving
21 an apprenticeship as a skilled workman who is able to command
22 the rate of a mechanic in his particular trade or as a foreman
23 who is in charge of a group of workmen and usually is
24 responsible to a superintendent or a contractor or his
25 equivalent, provided, however, that at least 1 year of active
26 experience shall be as a foreman.

27 3. Has a combination of not less than 1 year of
28 experience as a foreman and not less than 3 years of credits
29 for any accredited college-level courses; has a combination of
30 not less than 1 year of experience as a skilled workman, 1
31 year of experience as a foreman, and not less than 2 years of

1 credits for any accredited college-level courses; or has a
2 combination of not less than 2 years of experience as a
3 skilled workman, 1 year of experience as a foreman, and not
4 less than 1 year of credits for any accredited college-level
5 courses. For the number of years of credits for any
6 accredited college-level courses, the applicant shall show
7 completion of an equal number of courses in the appropriate
8 field of engineering, architecture, or building construction.
9 All junior college or community college-level courses shall be
10 considered accredited college-level courses.

11 4.a. An active certified residential contractor is
12 eligible to take the building contractors' examination if he
13 possesses a minimum of 3 years of proven experience in the
14 classification in which he is certified.

15 b. An active certified residential contractor is
16 eligible to take the general contractors' examination if he
17 possesses a minimum of 4 years of proven experience in the
18 classification in which he is certified.

19 c. An active certified building contractor is eligible
20 to take the general contractors' examination if he possesses a
21 minimum of 4 years of proven experience in the classification
22 in which he is certified.

23 5.a. An active certified air-conditioning Class C
24 contractor is eligible to take the air-conditioning Class B
25 contractors' examination if he possesses a minimum of 3 years
26 of proven experience in the classification in which he is
27 certified.

28 b. An active certified air-conditioning Class C
29 contractor is eligible to take the air-conditioning Class A
30 contractors' examination if he possesses a minimum of 4 years
31

1 of proven experience in the classification in which he is
2 certified.

3 c. An active certified air-conditioning Class B
4 contractor is eligible to take the air-conditioning Class A
5 contractors' examination if he possesses a minimum of 1 year
6 of proven experience in the classification in which he is
7 certified.

8 6.a. An active certified swimming pool servicing
9 contractor is eligible to take the residential swimming pool
10 contractors' examination if he possesses a minimum of 3 years
11 of proven experience in the classification in which he is
12 certified.

13 b. An active certified swimming pool servicing
14 contractor is eligible to take the swimming pool commercial
15 contractors' examination if he possesses a minimum of 4 years
16 of proven experience in the classification in which he is
17 certified.

18 c. An active certified residential swimming pool
19 contractor is eligible to take the commercial swimming pool
20 contractors' examination if he possesses a minimum of 1 year of
21 proven experience in the classification in which he is
22 certified.

23 (3)(a) The board may refuse to certify an applicant
24 for failure to satisfy the requirement of good moral character
25 only if:

26 1. There is a substantial connection between the lack
27 of good moral character of the applicant and the professional
28 responsibilities of a certified contractor; and

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

31

1 (b) When an applicant is found to be unqualified for a
2 certificate because of a lack of good moral character, the
3 board shall furnish the applicant a statement containing the
4 findings of the board, a complete record of the evidence upon
5 which the determination was based, and a notice of the rights
6 of the applicant to a rehearing and appeal.

7 (4) The department shall ensure that a sensitivity
8 review committee has been established including
9 representatives of various ethnic/minority groups. No
10 question found by this committee to be discriminatory against
11 any ethnic/minority group shall be included in the
12 examination.

13 Section 6. Subsections (1) and (4) of sections
14 489.113, Florida Statutes, are amended to read:

15 489.113 Qualifications for practice; restrictions.--

16 (1) Any person who desires to engage in contracting on
17 a statewide basis shall, as a prerequisite thereto, establish
18 his competency and qualifications to be certified pursuant to
19 this part. To establish his competency, a person shall pass
20 the appropriate examination approved by the board and
21 certified ~~administered~~ by the department. Any person who
22 desires to engage in contracting on other than a statewide
23 basis shall, as a prerequisite thereto, be registered pursuant
24 to this part, unless exempted by this part.

25 (4)(a) When a certificateholder desires to engage in
26 contracting in any area of the state, as a prerequisite
27 therefor, he shall be required only to exhibit to the local
28 building official, tax collector, or other person in charge of
29 the issuance of licenses and building permits in the area
30 evidence of holding a current certificate and to pay the fee
31

1 for the occupational license and building permit required of
 2 other persons.

3 (b) Notwithstanding the provisions of paragraph (a), a
 4 local construction regulation board may deny, suspend, or
 5 revoke the authority of a certified contractor to obtain a
 6 building permit or limit such authority to obtaining the
 7 ~~issuance of a building permit to a certified contractor, or~~
 8 ~~issue~~ a permit or permits with specific conditions, if the
 9 local construction regulation board has found such contractor,
 10 through the public hearing process, to be guilty of fraud or a
 11 willful building code violation within the county or
 12 municipality that the local construction regulation board
 13 represents or if the local construction regulation board has
 14 proof that such contractor, through the public hearing
 15 process, has been found guilty in another county or
 16 municipality within the past 12 months, of fraud or a willful
 17 building code violation and finds, after providing notice of
 18 an opportunity to be heard to the contractor, that such fraud
 19 or violation would have been fraud or a violation if committed
 20 in the county or municipality that the local construction
 21 board represents. Notification of and information concerning
 22 such permit denial shall be submitted to the department within
 23 15 days after the local construction regulation board decides
 24 to deny the permit.

25 (c) The local government may also deny issuance of, or
 26 may suspend, any outstanding building permit where a
 27 contractor fails or refuses to provide proof of public
 28 liability and property damage insurance coverage as required
 29 by s. 489.115(5) and workers' compensation insurance coverage
 30 as required by s. 489.114.

31

1 (d) It is the policy of the state that the purpose of
 2 regulation is to protect the public by attaining compliance
 3 with the policies established in law. Fines and other
 4 penalties are provided in order to ensure compliance; however,
 5 the collection of fines and the imposition of penalties are
 6 intended to be secondary to the primary goal of attaining
 7 compliance with state laws and local jurisdiction ordinances.
 8 It is the intent of the Legislature that a local jurisdiction
 9 agency charged with enforcing regulatory laws shall issue a
 10 notice of noncompliance as its first response to a minor
 11 violation of a regulatory law in any instance in which it is
 12 reasonable to assume that the violator was unaware of such a
 13 law or unclear as to how to comply with it. A violation of a
 14 regulatory law is a "minor violation" if it does not result in
 15 economic or physical harm to a person or adversely affect the
 16 public health, safety, or welfare or create a significant
 17 threat of such harm. A "notice of noncompliance" is a
 18 notification by the local jurisdiction agency charged with
 19 enforcing the ordinance, which is issued to the licensee that
 20 is subject to the ordinance. A notice of noncompliance should
 21 not be accompanied with a fine or other disciplinary penalty.
 22 It should identify the specific ordinance that is being
 23 violated, provide information on how to comply with the
 24 ordinance, and specify a reasonable time for the violator to
 25 comply with the ordinance. Failure of a licensee to take
 26 action correcting the violation within a set period of time
 27 would then result in the institution of further disciplinary
 28 proceedings.

29 Section 7. Section 489.114, Florida Statutes, is
 30 amended to read:
 31

1 489.114 Evidence of workers' compensation
2 coverage.--Any person, business organization, or qualifying
3 agent engaged in the business of contracting in this state and
4 certified or registered under this part shall, as a condition
5 precedent to the issuance or renewal of a certificate, ~~or~~
6 registration, or certificate of authority of the contractor,
7 provide to the Construction Industry Licensing Board, as
8 provided by board rule, evidence of workers' compensation
9 coverage pursuant to chapter 440. In the event that the
10 Division of Workers' Compensation of the Department of Labor
11 and Employment Security receives notice of the cancellation of
12 a policy of workers' compensation insurance insuring a person
13 or entity governed by this section, the Division of Workers'
14 Compensation shall certify and identify all persons or
15 entities by certification or registration license number to
16 the department after verification is made by the Division of
17 Workers' Compensation that such cancellation has occurred or
18 that persons or entities governed by this section are no
19 longer covered by workers' compensation insurance. Such
20 certification and verification by the Division of Workers'
21 Compensation shall result solely from records furnished to the
22 Division of Workers' Compensation by the persons or entities
23 governed by this section. The department shall notify the
24 persons or entities governed by this section who have been
25 determined to be in noncompliance with chapter 440, and the
26 persons or entities notified shall provide certification of
27 compliance with chapter 440 to the department and pay an
28 administrative fine as provided by rule. The failure to
29 maintain workers' compensation coverage as required by law
30 shall be grounds for the board to revoke, suspend, or deny the
31 issuance or renewal of a certificate, ~~or~~ registration, or

1 certificate of authority of the contractor under the
2 provisions of s. 489.129.

3 Section 8. Subsections (3), (4), and (5) of section
4 489.115, Florida Statutes, are amended to read:

5 489.115 Certification and registration; endorsement;
6 reciprocity; renewals; continuing education.--

7 (3) The board shall certify as qualified for
8 certification by endorsement any applicant who:

9 (a) Meets the requirements for certification as set
10 forth in this section; has passed a national, regional, state,
11 or United States territorial licensing examination that is
12 substantially equivalent to the examination required by this
13 part; and has satisfied the requirements set forth in s.
14 489.111; ~~or~~

15 (b) Holds a valid license to practice contracting
16 issued by another state or territory of the United States, if
17 the criteria for issuance of such license were substantially
18 equivalent to Florida's current certification criteria; or

19 (c) Holds a valid, current license to practice
20 contracting issued by another state or territory of the United
21 States, if the state or territory has entered into a
22 reciprocal agreement with the board for the recognition of
23 contractor licenses issued in that state, based on criteria
24 for the issuance of such licenses that are substantially
25 equivalent to the criteria for certification in this state.

26 (4)(a) Each certificateholder or registrant who
27 desires to continue as a certificateholder or registrant shall
28 renew his certificate or registration every 2 years. The
29 department shall mail each certificateholder and registrant an
30 application for renewal.

31

1 (b)1. Each certificateholder or registrant shall
 2 provide proof, in a form established by rule of the board,
 3 that the certificateholder or registrant has completed at
 4 least 14 classroom hours of at least 50 minutes each of
 5 continuing education courses during each biennium since the
 6 issuance or renewal of the certificate or registration. The
 7 board shall establish by rule that a portion of the required
 8 14 hours must deal with the subject of workers' compensation
 9 and workplace safety. The board shall by rule establish
 10 criteria for the approval of continuing education courses and
 11 providers, including requirements relating to the content of
 12 courses and standards for approval of providers,and may by
 13 rule establish criteria for accepting alternative nonclassroom
 14 continuing education on an hour-for-hour basis.

15 2. In addition, the board may approve specialized
 16 continuing education courses on compliance with the wind
 17 resistance provisions for one and two family dwellings
 18 contained in the State Minimum Building Codes and any
 19 alternate methodologies for providing such wind resistance
 20 which have been approved for use by the Board of Building
 21 Codes and Standards. Division I certificateholders or
 22 registrants who demonstrate proficiency upon completion of
 23 such specialized courses may certify plans and specifications
 24 for one and two family dwellings to be in compliance with the
 25 code or alternate methodologies, as appropriate, except for
 26 dwellings located in floodways or coastal hazard areas as
 27 defined in ss. 60.3D and E of the National Flood Insurance
 28 Program.

29 (c) The certificateholder or registrant shall
 30 complete, sign, and forward the renewal application to the
 31 department, together with the appropriate fee. Upon receipt of

1 the application and fee, the department shall renew the
2 certificate or registration.

3 (5)(a) As a prerequisite to the initial issuance or
4 the renewal of a certificate or registration, the applicant
5 shall submit an affidavit on a form provided by the board
6 attesting to the fact that the applicant has obtained workers'
7 compensation insurance as required by chapter 440, public
8 liability insurance, and property damage insurance for the
9 safety and welfare of the public, in amounts determined by
10 rule of the board. The board shall by rule establish a
11 procedure to verify the accuracy of such affidavits based upon
12 a random sample method.

13 (b) In addition to the affidavit of insurance, as a
14 prerequisite to the initial issuance of a certificate, the
15 applicant shall furnish a credit report from a nationally
16 recognized credit agency that reflects the financial
17 responsibility of the applicant and evidence of financial
18 responsibility, credit, and business reputation of either
19 himself or the business organization he desires to qualify.
20 The board shall adopt rules defining financial responsibility
21 based upon the applicant's credit history, ability to be
22 bonded, and any history of bankruptcy or assignment of
23 receivers. Such rules shall specify the financial
24 responsibility grounds on which the board may refuse to
25 qualify an applicant for certification.

26 (c) If, within 60 days from the date the applicant is
27 notified that he has qualified, he does not provide the
28 evidence required, he shall apply to the department for an
29 extension of time which shall be granted upon a showing of
30 just cause.

31

1 Section 9. Section 489.119, Florida Statutes, 1996
2 Supplement, is amended to read:

3 489.119 Business organizations; qualifying agents.--

4 (1) If an individual proposes to engage in contracting
5 in the individual's own name, or a fictitious name where the
6 individual is doing business as a sole proprietorship,
7 registration or certification may be issued only to that
8 individual.

9 (2) If the applicant proposes to engage in contracting
10 as a business organization, including any partnership,
11 corporation, business trust, or other legal entity, or in any
12 name other than the applicant's legal name or a fictitious
13 name where the applicant is doing business as a sole
14 proprietorship, the business organization must apply for a
15 certificate of authority ~~certification or registration~~ through
16 a qualifying agent and under the fictitious name, if any.

17 (a) The application for a certificate of authority
18 must state the name of the partnership and of its partners;
19 the name of the corporation and of its officers and directors
20 and the name of each of its stockholders who is also an
21 officer or director; the name of the business trust and its
22 trustees; or the name of such other legal entity and its
23 members; and must state the fictitious name, if any, under
24 which the business organization is doing business.

25 1. The application for primary qualifying agent must
26 include an affidavit on a form provided by the board attesting
27 that the applicant has final approval authority for all
28 construction work performed by the entity and that the
29 applicant has final approval authority on all business
30 matters, including contracts, specifications, checks, drafts,
31 or payments, regardless of the form of payment, made by the

1 entity, except where a financially responsible officer is
2 approved.

3 2. The application for financially responsible officer
4 must include an affidavit on a form provided by the board
5 attesting that the applicant's approval is required for all
6 checks, drafts, or payments, regardless of the form of
7 payment, made by the entity and that the applicant has
8 authority to act for the business organization in all
9 financial matters.

10 3. The application for secondary qualifying agent must
11 include an affidavit on a form provided by the board attesting
12 that the applicant has authority to supervise all construction
13 work performed by the entity as provided in s. 489.1195(2).

14 (b) The applicant must furnish evidence of statutory
15 compliance if a fictitious name is used, the provisions of s.
16 865.09(7) notwithstanding.

17 (c) A joint venture, including a joint venture
18 composed of qualified business organizations, is itself a
19 separate and distinct organization that must be qualified and
20 obtain a certificate of authority in accordance with board
21 rules.

22 (d) A certificate of authority must be renewed every 2
23 years. ~~The registration or certification, when issued upon~~
24 ~~application of a business organization, must be in the name of~~
25 ~~the business organization.~~ If there is a change in any
26 information that is required to be stated on the application,
27 the business organization shall, within 45 days after such
28 change occurs, mail the correct information to the department.

29 (3)(a) The qualifying agent shall be certified or
30 registered under this part in order for the business
31 organization to be issued a certificate of authority ~~certified~~

1 ~~or registered~~ in the category of the business conducted for
 2 which the qualifying agent is certified or registered. If any
 3 qualifying agent ceases to be affiliated with such business
 4 organization, he shall so inform the department. In addition,
 5 if such qualifying agent is the only certified or registered
 6 contractor affiliated with the business organization, the
 7 business organization shall notify the department of the
 8 termination of the qualifying agent and shall have 60 days
 9 from the termination of the qualifying agent's affiliation
 10 with the business organization in which to employ another
 11 qualifying agent. The business organization may not engage in
 12 contracting until a qualifying agent is employed, unless the
 13 executive director or chair of the board has granted a
 14 temporary nonrenewable certificate or registration to the
 15 financially responsible officer, the president, a partner, or,
 16 in the case of a limited partnership, the general partner, who
 17 assumes all responsibilities of a primary qualifying agent for
 18 the entity. This temporary certificate or registration shall
 19 only allow the entity to proceed with incomplete contracts as
 20 defined in s. 489.121.

21 (b) The qualifying agent shall inform the department
 22 in writing when he proposes to engage in contracting in his
 23 own name or in affiliation with another business organization,
 24 and he or such new business organization shall supply the same
 25 information to the department as required of applicants under
 26 this part.

27 (c) Upon a favorable determination by the board, after
 28 investigation of the financial responsibility, credit, and
 29 business reputation of the qualifying agent and the new
 30 business organization, the department shall issue, without an
 31

1 examination, a new certificate of authority ~~or registration~~ in
2 the business organization's name.

3 (4) Disciplinary action against a business
4 organization holding a certificate of authority shall be
5 administered in the same manner and on the same grounds as
6 disciplinary action against a contractor. The board may deny
7 the certification of any person cited in subsection (2) if the
8 person has been involved in past disciplinary actions or on
9 any grounds for which individual certification can be denied.

10 (5)~~(4)~~ When a certified qualifying agent, on behalf of
11 a business organization, makes application for an occupational
12 license in any municipality or county of this state, the
13 application shall be made with the tax collector in the name
14 of the business organization and the qualifying agent; and the
15 license, when issued, shall be issued to the business
16 organization, upon payment of the appropriate licensing fee
17 and exhibition to the tax collector of a valid certificate for
18 the qualifying agent and a valid certificate of authority for
19 the business organization issued by the department, and the
20 state license numbers ~~number~~ shall be noted thereon.

21 (6)~~(5)~~(a) Each registered or certified contractor
22 shall affix the number of his registration or certification to
23 each application for a building permit and on each building
24 permit issued and recorded. Each city or county building
25 department shall require, as a precondition for the issuance
26 of the building permit, that the contractor taking out the
27 permit must provide verification giving his Construction
28 Industry Licensing Board registration or certification number.

29 (b) The registration or certification number of each
30 contractor or certificate of authority number for each
31 business organization shall appear in each offer of services,

1 business proposal, bid, contract, or advertisement, regardless
2 of medium, as defined by board rule, used by that contractor
3 or business organization in the practice of contracting.

4 (c) If a vehicle bears the name of a contractor or
5 business organization, or any text or artwork which would lead
6 a reasonable person to believe that the vehicle is used for
7 contracting, the registration or certification number of the
8 contractor or certificate of authority number of the business
9 organization must be conspicuously and legibly displayed with
10 the name, text, or artwork. Local governments may also
11 require that locally licensed contractors must also display
12 their certificate of competency or license numbers. Nothing
13 in this paragraph shall be construed to create a mandatory
14 vehicle signage requirement.

15 (d) For the purposes of this part, the term
16 "advertisement" does not include business stationery or any
17 promotional novelties such as balloons, pencils, trinkets, or
18 articles of clothing.

19 (e) The board shall issue a notice of noncompliance
20 for the first offense, and may assess a fine or issue a
21 citation for failure to correct the offense within 30 days or
22 for any subsequent offense, to any contractor or business
23 organization that fails to include the certification, or
24 registration, or certificate of authority number as required
25 by this part when submitting an advertisement for publication,
26 broadcast, or printing or fails to display the certification,
27 or registration, or certificate of authority number as
28 required by this part.

29 ~~(7)(6)~~ Each qualifying agent shall pay the department
30 an amount equal to the original fee for a certificate of
31 authority ~~certification or registration~~ of a new business

1 organization. If the qualifying agent for a business
2 organization desires to qualify additional business
3 organizations, the board shall require him to present evidence
4 of ability and financial responsibility of each such
5 organization. The issuance of such certificate of authority
6 ~~certification or registration~~ is discretionary with the board.

7 Section 10. Subsection (1) of section 489.127, Florida
8 Statutes, 1996 Supplement, is amended to read:

9 489.127 Prohibitions; penalties.--

10 (1) No person shall:

11 (a) Falsely hold himself or a business organization
12 out as a licensee, certificateholder, or registrant;

13 (b) Falsely impersonate a certificateholder or
14 registrant;

15 (c) Present as his own the certificate, or
16 registration, or certificate of authority of another;

17 (d) Knowingly give false or forged evidence to the
18 board or a member thereof;

19 (e) Use or attempt to use a certificate, or
20 registration, or certificate of authority which has been
21 suspended or revoked;

22 (f) Engage in the business or act in the capacity of a
23 contractor or advertise himself or a business organization as
24 available to engage in the business or act in the capacity of
25 a contractor without being duly registered or certified or
26 having a certificate of authority;

27 (g) Operate a business organization engaged in
28 contracting after 60 days following the termination of its
29 only qualifying agent without designating another primary
30 qualifying agent, except as provided in ss. 489.119 and
31 489.1195;

1 (h) Commence or perform work for which a building
2 permit is required pursuant to an adopted state minimum
3 building code without such building permit being in effect; or
4 (i) Willfully or deliberately disregard or violate any
5 municipal or county ordinance relating to uncertified or
6 unregistered contractors.

7
8 For purposes of this subsection, a person or business
9 organization operating on an inactive or suspended
10 certificate, or registration, or certificate of authority ~~or~~
11 ~~operating beyond the scope of work or geographical scope of~~
12 ~~the registration,~~ is not duly certified or registered and is
13 considered unlicensed. An occupational license certificate
14 issued under the authority of chapter 205 is not a license for
15 purposes of this part.

16 Section 11. Subsection (1) of section 489.1195,
17 Florida Statutes, is amended to read:

18 489.1195 Responsibilities.--

19 (1) A qualifying agent is a primary qualifying agent
20 unless he is a secondary qualifying agent under this section.

21 (a) All primary qualifying agents for a business
22 organization are jointly and equally responsible for
23 supervision of all operations of the business organization;
24 for all field work at all sites; and for financial matters,
25 both for the organization in general and for each specific
26 job.

27 (b) Upon approval by the board, a business entity may
28 designate a financially responsible officer for purposes of
29 certification or registration. A financially responsible
30 officer shall be responsible ~~assume personal responsibility~~
31 for all financial aspects of the business organization and may

1 not be designated as the primary qualifying agent. The
2 designated financially responsible officer shall furnish
3 evidence of the financial responsibility, credit, and business
4 reputation of either himself, or the business organization he
5 desires to qualify, as determined appropriate by the board.

6 (c) Where a business organization has a certified or
7 registered financially responsible officer, the primary
8 qualifying agent shall be responsible for all construction
9 activities of the business organization, both in general and
10 for each specific job.

11 Section 12. Paragraph (a) of subsection (6) and
12 subsections (1), (5), and (7) of section 489.129, Florida
13 Statutes, 1996 Supplement, are amended to read:

14 489.129 Disciplinary proceedings.--

15 (1) The board may take any of the following actions
16 against any certificateholder or registrant: place on
17 probation or reprimand the licensee, revoke, suspend, or deny
18 the issuance or renewal of the certificate, ~~or~~ registration,
19 or certificate of authority, require financial restitution to
20 a consumer for financial harm directly related to a violation
21 of a provision of this part, impose an administrative fine not
22 to exceed \$5,000 per violation, require continuing education,
23 or assess costs associated with investigation and prosecution,
24 if the contractor, financially responsible officer, or
25 business organization for which the contractor is a primary
26 qualifying agent, a financially responsible officer, or a
27 secondary qualifying agent responsible under s. 489.1195 is
28 found guilty of any of the following acts:

29 (a) Obtaining a certificate, ~~or~~ registration, or
30 certificate of authority by fraud or misrepresentation.

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1 (b) Being convicted or found guilty of, or entering a
2 plea of nolo contendere to, regardless of adjudication, a
3 crime in any jurisdiction which directly relates to the
4 practice of contracting or the ability to practice
5 contracting.

6 (c) Violating any provision of chapter 455.

7 (d) Knowingly violating the applicable building codes
8 or laws of the state or of any municipalities or counties
9 thereof.

10 (e) Performing any act which assists a person or
11 entity in engaging in the prohibited uncertified and
12 unregistered practice of contracting, if the certificateholder
13 or registrant knows or has reasonable grounds to know that the
14 person or entity was uncertified and unregistered.

15 (f) Knowingly combining or conspiring with an
16 uncertified or unregistered person by allowing his
17 certificate,~~or~~ registration, or certificate of authority to
18 be used by the uncertified or unregistered person with intent
19 to evade the provisions of this part. When a
20 certificateholder or registrant allows his certificate or
21 registration to be used by one or more business organizations
22 without having any active participation in the operations,
23 management, or control of such business organizations, such
24 act constitutes prima facie evidence of an intent to evade the
25 provisions of this part.

26 (g) Acting in the capacity of a contractor under any
27 certificate or registration issued hereunder except in the
28 name of the certificateholder or registrant as set forth on
29 the issued certificate or registration, or in accordance with
30 the personnel of the certificateholder or registrant as set
31

1 forth in the application for the certificate or registration,
2 or as later changed as provided in this part.

3 (h) Committing mismanagement or misconduct in the
4 practice of contracting that causes financial harm to a
5 customer. Financial mismanagement or misconduct occurs when:

6 1. Valid liens have been recorded against the property
7 of a contractor's customer for supplies or services ordered by
8 the contractor for the customer's job; the contractor has
9 received funds from the customer to pay for the supplies or
10 services; and the contractor has not had the liens removed
11 from the property, by payment or by bond, within 75 days after
12 the date of such liens;

13 2. The contractor has abandoned a customer's job and
14 the percentage of completion is less than the percentage of
15 the total contract price paid to the contractor as of the time
16 of abandonment, unless the contractor is entitled to retain
17 such funds under the terms of the contract or refunds the
18 excess funds within 30 days after the date the job is
19 abandoned; or

20 3. The contractor's job has been completed, and it is
21 shown that the customer has had to pay more for the contracted
22 job than the original contract price, as adjusted for
23 subsequent change orders, unless such increase in cost was the
24 result of circumstances beyond the control of the contractor,
25 was the result of circumstances caused by the customer, or was
26 otherwise permitted by the terms of the contract between the
27 contractor and the customer.

28 (i) Being disciplined by any municipality or county
29 for an act or violation of this part.

30
31

1 (j) Failing in any material respect to comply with the
2 provisions of this part or violating a rule or lawful order of
3 the board.

4 (k) Abandoning a construction project in which the
5 contractor is engaged or under contract as a contractor. A
6 project may be presumed abandoned after 90 days if the
7 contractor terminates the project without just cause or
8 without proper notification to the owner, including the reason
9 for termination, or fails to perform work without just cause
10 for 90 consecutive days.

11 (l) Signing a statement with respect to a project or
12 contract falsely indicating that the work is bonded; falsely
13 indicating that payment has been made for all subcontracted
14 work, labor, and materials which results in a financial loss
15 to the owner, purchaser, or contractor; or falsely indicating
16 that workers' compensation and public liability insurance are
17 provided.

18 (m) Committing fraud or deceit in the practice of
19 contracting.

20 (n) Committing incompetency or misconduct in the
21 practice of contracting.

22 (o) Committing gross negligence, repeated negligence,
23 or negligence resulting in a significant danger to life or
24 property.

25 (p) Proceeding on any job without obtaining applicable
26 local building department permits and inspections.

27 (q) Intimidating, threatening, coercing, or otherwise
28 discouraging the service of a notice to owner under part I of
29 chapter 713 or a notice to contractor under chapter 255 or
30 part I of chapter 713.

31

1 (r) Failing to satisfy within a reasonable time, the
2 terms of a civil judgment obtained against the licensee, or
3 the business organization qualified by the licensee, relating
4 to the practice of the licensee's profession.

5
6 For the purposes of this subsection, construction is
7 considered to be commenced when the contract is executed and
8 the contractor has accepted funds from the customer or lender.

9 (5) The board may not reinstate the certification, or
10 registration, or certificate of authority of, or cause a
11 certificate, or registration, or certificate of authority to
12 be issued to, a person who or business organization which the
13 board has determined is unqualified or whose certificate, or
14 registration, or certificate of authority the board has
15 suspended until it is satisfied that such person or business
16 organization has complied with all the terms and conditions
17 set forth in the final order and is capable of competently
18 engaging in the business of contracting.

19 (6)(a) The board may assess interest or penalties
20 ~~payments~~ on all fines imposed under this chapter against any
21 person or business organization which has not paid the imposed
22 fine by the due date established by rule or final order. The
23 provisions of chapter 120 do not apply to such assessment.
24 Interest rates to be imposed shall be established by rule and
25 shall not be usurious.

26 (7) The board shall not issue or renew a certificate,
27 or registration, or certificate of authority to any person or
28 business organization that ~~who~~ has been assessed a fine,
29 interest ~~payments~~, or costs associated with investigation and
30 prosecution, or has been ordered to pay restitution, until
31 such fine, interest ~~payments~~, or costs associated with

1 investigation and prosecution or restitution are paid in full
2 or until all terms and conditions of the final order have been
3 satisfied.

4 Section 13. Paragraphs (c) and (e) of subsection (3)
5 and subsection (7) of section 489.131, Florida Statutes, 1996
6 Supplement, are amended to read:

7 489.131 Applicability.--

8 (3) Nothing in this part limits the power of a
9 municipality or county:

10 (c) To collect occupational license taxes, subject to
11 s. 205.065, and inspection fees for engaging in contracting or
12 examination fees from persons who are registered with the
13 board pursuant to local examination requirements and issue
14 occupational license tax certificates. However, nothing in
15 this part shall be construed to require general contractors,
16 building contractors, or residential contractors to obtain
17 additional occupational license tax certificates ~~licenses~~ for
18 specialty work when such specialty work is performed by
19 employees of such contractors on projects for which they have
20 substantially full responsibility and such contractors do not
21 hold themselves out to the public as being specialty
22 contractors.

23 (e) To require one bond for each contractor in an
24 amount not to exceed \$5,000, which bond shall be conditioned
25 only upon compliance with the applicable state minimum
26 building code and applicable local building code requirements
27 adopted pursuant to s. 553.73. Any such bond must be equally
28 available to all contractors without regard to the period of
29 time a contractor has been certified or registered and without
30 regard to any financial responsibility requirements. Any such
31 bonds shall be payable to the Construction Industry Recovery

1 ~~Fund Governor~~ and filed in each county or municipality in
2 which a building permit is requested. Bond reciprocity shall
3 be granted statewide. All such bonds shall be included in
4 meeting any financial responsibility requirements imposed by
5 any statute or rule. Any contractor who provides a third
6 party insured warranty policy in connection with a new
7 building or structure for the benefit of the purchaser or
8 owner shall be exempt from the bond requirements under this
9 subsection with respect to such building or structure.

10 (7)(a) It is the policy of the state that the purpose
11 of regulation is to protect the public by attaining compliance
12 with the policies established in law. Fines and other
13 penalties are provided in order to ensure compliance; however,
14 the collection of fines and the imposition of penalties are
15 intended to be secondary to the primary goal of attaining
16 compliance with state laws and local jurisdiction ordinances.
17 It is the intent of the Legislature that a local jurisdiction
18 agency charged with enforcing regulatory laws shall issue a
19 notice of noncompliance as its first response to a minor
20 violation of a regulatory law in any instance in which it is
21 reasonable to assume that the violator was unaware of such a
22 law or unclear as to how to comply with it. A violation of a
23 regulatory law is a "minor violation" if it does not result in
24 economic or physical harm to a person or adversely affect the
25 public health, safety, or welfare or create a significant
26 threat of such harm. A "notice of noncompliance" is a
27 notification by the local jurisdiction agency charged with
28 enforcing the ordinance, which is issued to the licensee that
29 is subject to the ordinance. A notice of noncompliance should
30 not be accompanied with a fine or other disciplinary penalty.
31 It should identify the specific ordinance that is being

1 violated, provide information on how to comply with the
 2 ordinance, and specify a reasonable time for the violator to
 3 comply with the ordinance. Failure of a licensee to take
 4 action correcting the violation within a set period of time
 5 would then result in the institution of further disciplinary
 6 proceedings.

7 (b)~~(a)~~ The local governing body of a county or
 8 municipality, or its local enforcement body, is authorized to
 9 enforce the provisions of this part as well as its local
 10 ordinances against locally licensed or registered contractors,
 11 as appropriate. The local jurisdiction enforcement body may
 12 conduct disciplinary proceedings against a locally licensed or
 13 registered contractor and may require restitution, impose a
 14 suspension or revocation of his local license, or a fine not
 15 to exceed \$5,000, or a combination thereof, against the
 16 locally licensed or registered contractor, according to
 17 ordinances which a local jurisdiction may enact. In addition,
 18 the local jurisdiction may assess reasonable investigative and
 19 legal costs for the prosecution of the violation against the
 20 violator, according to such ordinances as the local
 21 jurisdiction may enact.

22 (c)~~(b)~~ In addition to any action the local
 23 jurisdiction enforcement body may take against the
 24 individual's local license, and any fine the local
 25 jurisdiction may impose, the local jurisdiction enforcement
 26 body shall issue a recommended penalty for board action. This
 27 recommended penalty may include a recommendation for no
 28 further action, or a recommendation for suspension,
 29 revocation, or restriction of the registration, or a fine to
 30 be levied by the board, or a combination thereof. The local
 31 jurisdiction enforcement body shall inform the disciplined

1 contractor and the complainant of the local license penalty
 2 imposed, the board penalty recommended, his rights to appeal,
 3 and the consequences should he decide not to appeal. The
 4 local jurisdiction enforcement body shall, upon having reached
 5 adjudication or having accepted a plea of nolo contendere,
 6 immediately inform the board of its action and the recommended
 7 board penalty.

8 (d)~~(c)~~ The department, the disciplined contractor, or
 9 the complainant may challenge the local jurisdiction
 10 enforcement body's recommended penalty for board action to the
 11 Construction Industry Licensing Board. A challenge shall be
 12 filed within 60 days after the issuance of the recommended
 13 penalty to the board. If challenged, there is a presumptive
 14 finding of probable cause and the case may proceed without the
 15 need for a probable cause hearing.

16 (e)~~(d)~~ Failure of the department, the disciplined
 17 contractor, or the complainant to challenge the local
 18 jurisdiction's recommended penalty within the time period set
 19 forth in this subsection shall constitute a waiver of the
 20 right to a hearing before the board. A waiver of the right to
 21 a hearing before the board shall be deemed an admission of the
 22 violation, and the penalty recommended shall become a final
 23 order according to procedures developed by board rule without
 24 further board action. The disciplined contractor may appeal
 25 this board action to the district court.

26 (f)~~(e)~~ The department may investigate any complaint
 27 which is made with the department. However, if the department
 28 determines that the complaint against a registered contractor
 29 is for an action which a local jurisdiction enforcement body
 30 has investigated and reached adjudication or accepted a plea
 31 of nolo contendere, including a recommended penalty to the

1 board, the department shall not initiate prosecution for that
2 action, unless the secretary has initiated summary procedures
3 pursuant to s. 455.225(8).

4 ~~(g)(f)~~ Nothing in this subsection shall be construed
5 to allow local jurisdictions to exercise disciplinary
6 authority over certified contractors.

7 Section 14. Subsection (5) of section 489.132, Florida
8 Statutes, is amended to read:

9 489.132 Prohibited acts by unlicensed principals;
10 investigation; hearing; penalties.--

11 (5) The department may suspend, revoke, or deny
12 issuance or renewal of a certificate, ~~or~~ registration, ~~or~~
13 certificate of authority for any individual or business
14 organization that associates a person as an officer, director,
15 or partner, or in a managerial or supervisory capacity, after
16 such person has been found under a final order to have
17 violated this section or was an officer, director, partner,
18 trustee, or manager of a business organization disciplined by
19 the board by revocation, suspension, or fine in excess of
20 \$2,500, upon finding reasonable cause that such person knew or
21 reasonably should have known of the conduct leading to the
22 discipline.

23 Section 15. Section 489.1455, Florida Statutes, is
24 created to read:

25 489.1455 Journeyman; reciprocity; standards.--

26 (1) An individual who holds a valid, active journeyman
27 license in the plumbing/pipe fitting, mechanical, or HVAC
28 trades issued by any county or municipality in this state may
29 work as a journeyman in the trade in which he or she is
30 licensed in any other county or municipality of this state

31

1 without taking an additional examination or paying an
2 additional license fee, if he or she:

3 (a) Has scored at least 70 percent, or after October
4 1, 1997, at least 75 percent, on a proctored journeyman Block
5 and Associates examination or other proctored examination
6 approved by the board for the trade in which he or she is
7 licensed;

8 (b) Has completed an apprenticeship program registered
9 with the Department of Labor and Employment Security and
10 demonstrates 4 years' verifiable practical experience in the
11 trade for which he or she is licensed, or demonstrates 6
12 years' verifiable practical experience in the trade for which
13 he or she is licensed; and

14 (c) Has not had a license suspended or revoked within
15 the last 5 years.

16 (2) A local government may charge a registration fee
17 for reciprocity, not to exceed \$25.

18 Section 16. Effective upon this act becoming a law,
19 section 489.146, Florida Statutes, is created to read:

20 489.146 Privatization of services.--Notwithstanding
21 any other provision of this part relating to the review of
22 licensure applications, issuance of licenses and renewals,
23 collection of revenues, fees, and fines, service of documents,
24 publications, and printing, and other ministerial functions of
25 the department relating to the regulation of contractors, the
26 department shall make all reasonable efforts to contract with
27 one or more private entities for provision of such services,
28 when such services can be provided in a more efficient manner
29 by private entities. The department or the board shall retain
30 final authority for licensure decisions and rulemaking,
31 including all appeals or other legal action resulting from

1 such licensure decisions or rulemaking. The department and
2 the board shall adopt rules to implement the provisions of
3 this section. The department shall report all progress and
4 the status of privatization and privatization efforts to the
5 Legislature by March 1, 1998.

6 Section 17. Section 489.5335, Florida Statutes, is
7 created to read:

8 489.5335 Journeyman; reciprocity; standards.--

9 (1) An individual who holds a valid, active journeyman
10 license in the electrical trade issued by any county or
11 municipality in this state may work as a journeyman in any
12 other county or municipality of this state without taking an
13 additional examination or paying an additional license fee, if
14 he or she:

15 (a) Has scored at least 70 percent, or after October
16 1, 1997, at least 75 percent, on a proctored journeyman Block
17 and Associates examination or other proctored examination
18 approved by the board for the electrical trade;

19 (b) Has completed an apprenticeship program registered
20 with the Department of Labor and Employment Security and
21 demonstrates 4 years' verifiable practical experience in the
22 electrical trade, or demonstrates 6 years' verifiable
23 practical experience in the electrical trade; and

24 (c) Has not had a license suspended or revoked within
25 the last 5 years.

26 (2) A local government may charge a registration fee
27 for reciprocity, not to exceed \$25.

28 Section 18. Except as otherwise provided herein, this
29 act shall take effect July 1, 1997.
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