

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 24, 1998 Revised: _____

Subject: The Construction Industry Recovery Fund

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Masterton</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable</u>
2.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This bill increases the limit on payments of claims from the Construction Industries Recovery Fund from \$100,000 to \$250,00 per licensee. In addition, it authorizes additional payments to claimants whose claims came before the board after January 1, 1998, and were denied solely because the existing \$100,000 cap had been exceeded.

This bill substantially amends section 489.143 of the Florida Statutes.

II. Present Situation:

Part I of chapter 489, F.S., provides for the regulation of construction contractors by the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR). Construction contractors include general, building, and residential contractors, and several categories of subcontractors, including roofing, plumbing, mechanical, sheet metal, air-conditioning, pool and spa, solar, pollutant storage systems, and underground utility contractors.

To provide recourse for consumers who suffer monetary damages because of improper actions by contractors, s. 489.140, F.S., creates the Construction Industries Recovery Fund (CIRF) as a separate account within the Professional Regulation Trust Fund. The CIRF is funded from the one-half cent per square foot surcharge on building permits collected and distributed pursuant to s. 468.631, F.S.

Section 468.631, F.S., provides for the assessment of the surcharge by the appropriate local government, which may retain up to 10% of the money to fund projects intended to improve building code enforcement. Additional amounts are to be used to fund the regulation of building

code administrators and inspectors by the Board of Building Code Administrators and Inspectors within the DBPR. After adequately funding this regulation, excess monies are transferred to the CIRF. Any money remaining after the CIRF is sufficiently funded is applied to the costs of the regulation of contractors by the CILB.

Section 489.141, F.S., provides that a person may recover from the CIRF based on a civil judgement against a contractor arising from a contract or based on a board order of restitution for a violation of part I of ch. 489, F.S., relating to building code violations, financial mismanagement, abandonment of a project, or certain false representations. The violation that is the basis for a claim must have occurred after July 1, 1993.

Section 489.143, F.S., provides the mechanism for and limitations on payment from the fund. Payments are capped at \$25,000 for a single claimant, or for a single transaction regardless of the number of claimants, and \$100,000 for multiple claims involving a single licensee. If claims pending against the fund exceed 80% of the fund balance plus anticipated revenues, the board must cease accepting additional claims until it receives authorization and additional funding from the Legislature.

The first claims against the fund were received in 1995. The DBPR has received a total of 620 claims to date. Of these, 179 have been approved, 321 are pending, and 120 have been denied, some with leave to reapply if additional conditions are met. The total amount transferred to the CIRF since July 1, 1993, is \$4,878,597. Claims that have been approved by the CILB through March 1, 1998, total \$2,416,556.01. This leaves a current balance in the fund of \$2,462,040.99. In addition, approximately \$1 million is transferred annually pursuant to the provisions of s. 468.631, F.S. To date, no money has been transferred to the CILB to fund the regulation of construction contractors.

One recent case that came before the CILB involved 12 claims against a single contractor totaling \$215,254. The \$100,000 maximum payment was prorated among the 12 claimants. According to the DBPR, in addition to this case, since the inception of the fund one other contractor reached the \$100,000 cap. There are cases pending against four contractors that will come close to the cap. Of these four, one contractor could possibly exceed the \$100,000 cap.

III. Effect of Proposed Changes:

The bill amends s. 489.143, F.S., to increase the maximum limit for payments for multiple claims against a single licensee (based on separate transactions) from \$100,000 to \$250,000. In addition, the bill provides that any claims which have come before the board since January 1, 1998, and were denied because they would exceed the existing \$100,000 cap, must be paid by the board, up to the \$250,000 limit. The \$25,000 limit per claimant and per transaction continues to apply to these claims.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who may now be reimbursed from the fund, but would have been precluded from recovery by the \$100,000 cap, will benefit under the bill.

C. Government Sector Impact:

The bill will result in greater amounts being paid out of the fund when the actions of a single contractor result in claims against the fund that exceed \$100,000, up to the maximum of \$250,000 established in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 2084 (referred to the Senate Community Affairs, Regulated Industries, and Ways and Means Committees) increases the amount of the one-half cent building surcharge that may be retained by local governments from 10 percent to 25 percent. In addition, it requires that 25 percent of the surcharge must be used by the Board of Building Code Administrators and Inspectors to develop continuing education programs for building code personnel. These additional amounts would reduce the amount of monies available to be transferred to the CIRF.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
