

By Senator Turner

36-1284-98

1 A bill to be entitled
2 An act relating to contractors; creating s.
3 489.112, F.S.; authorizing local governments to
4 adopt ordinances relating to journeyman
5 craftsmen, including requirements for presence
6 of such craftsmen, including certified or
7 registered contractors, at job sites; amending
8 s. 489.113, F.S.; providing for proceedings
9 against contractors who violate local
10 requirements that journeyman craftsmen be
11 present on a job site; providing for appeals of
12 disciplinary action taken; providing intent
13 with respect to such requirements; creating s.
14 489.5185, F.S.; authorizing local governments
15 to adopt ordinances relating to journeyman
16 craftsmen, including requirements for presence
17 of such craftsmen, including certified or
18 registered electrical contractors, at job
19 sites; amending s. 489.516, F.S.; providing for
20 proceedings against electrical and alarm system
21 contractors who violate local requirements that
22 journeyman craftsmen be present on a job site;
23 providing for appeals of disciplinary action
24 taken; providing intent with respect to such
25 requirements; providing an effective date.

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

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29 Section 1. Section 489.112, Florida Statutes, is
30 created to read:

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1 489.112 Journeyman craftsmen; local government
2 authority and restrictions.--

3 (1) A county or municipal government may enact and
4 enforce, upon registered and certified contractors, ordinances
5 relating to journeyman craftsmen, including journeyman
6 craftsman qualifications and requirements that journeyman
7 craftsmen be present on each job site. However, after October
8 1, 1998, if a local jurisdiction enacts a requirement for
9 journeyman craftsmen to be present on a job site, or if the
10 local government increases its existing requirement to require
11 the presence of journeyman craftsmen in a different number or
12 proportion than required prior to October 1, 1998, then the
13 enacting body must find that it has been shown that, to meet
14 the requirements that the ordinance imposes, an adequate
15 licensed manpower exists and is available in the region
16 comprised of that jurisdiction plus any directly adjacent
17 jurisdiction, and the enacting body must also make a finding
18 that such an ordinance is necessary to protect the safety,
19 health, and welfare of the public.

20 (2) On residential construction, the term "job site,"
21 for the purposes of this section, may be construed as all the
22 one-family or two-family dwellings constructed in one planned
23 unit project by one contractor.

24 (3) Any certified or registered contractor shall be
25 considered fully qualified as a journeyman craftsman for
26 purposes of any ordinance requiring a journeyman craftsman to
27 be present on a job site.

28 (4) Nothing in this section shall be construed as
29 requiring a county to pass any ordinance initiating or
30 expanding provisions relating to journeymen.

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1 Section 2. Subsection (4) of section 489.113, Florida
2 Statutes,, is amended to read:

3 489.113 Qualifications for practice; restrictions.--

4 (4)(a) When a certificateholder desires to engage in
5 contracting in any area of the state, as a prerequisite
6 therefor, he or she shall be required only to exhibit to the
7 local building official, tax collector, or other person in
8 charge of the issuance of licenses and building permits in the
9 area evidence of holding a current certificate and to pay the
10 fee for the occupational license and building permit required
11 of other persons.

12 (b) Notwithstanding the provisions of paragraph (a), a
13 local construction regulation board may deny, suspend, or
14 revoke the authority of a certified contractor to obtain a
15 building permit or limit such authority to obtaining a permit
16 or permits with specific conditions, if the local construction
17 regulation board has found such contractor, through the public
18 hearing process, to be guilty of fraud, guilty of violating
19 the local jurisdiction's requirement that journeyman craftsmen
20 be present on a job site,or guilty of a willful building code
21 violation within the county or municipality that the local
22 construction regulation board represents or if the local
23 construction regulation board has proof that such contractor,
24 through the public hearing process, has been found guilty in
25 another county or municipality within the past 12 months, of
26 fraud, of violating the local jurisdiction's requirement that
27 journeyman craftsmen be present on a job site,or of a willful
28 building code violation and finds, after providing notice of
29 an opportunity to be heard to the contractor, that such fraud
30 or violation would have been fraud or a violation if committed
31 in the county or municipality that the local construction

1 board represents. Notification of and information concerning
2 such permit denial shall be submitted to the department within
3 15 days after the local construction regulation board decides
4 to deny the permit.

5 (c) When a local jurisdiction takes disciplinary
6 action against a certified contractor for violation of its
7 ordinance requiring journeyman craftsmen on the job site, the
8 contractor may appeal that decision to the Construction
9 Industry Licensing Board. If appealed, the appeal must be
10 filed within 14 days after the issuance of the penalty by the
11 local jurisdiction. If appealed, there is a presumptive
12 finding of probable cause by the Construction Industry
13 Licensing Board and the case may proceed without the need for
14 a probable cause hearing. The contractor appealing the local
15 jurisdiction action shall provide notice to the local
16 jurisdiction upon filing the appeal. Upon the local
17 jurisdiction being provided this notice, its action is stayed.
18 The Construction Industry Licensing Board may uphold, reverse,
19 or modify the penalty imposed by the local jurisdiction. Upon
20 appeal, in addition to any penalty imposed by the local
21 jurisdiction, the Construction Industry Licensing Board shall
22 consider failure to comply with the local jurisdiction's
23 journeyman craftsman on-site requirements an offense subject
24 to penalties provided in s. 489.129. Upon conclusion of the
25 appeal process, the penalty imposed by the local jurisdiction
26 shall take effect, unless reversed or modified by the
27 Construction Industry Licensing Board. The Construction
28 Industry Licensing Board shall notify the local jurisdiction
29 of its action.

30 (d) Failure of the disciplined contractor to challenge
31 the local jurisdiction's penalty for violating its journeyman

1 craftsman on-site requirement within the time period set forth
2 in this subsection constitutes a waiver of the right to appeal
3 before the Construction Industry Licensing Board. This waiver
4 shall be deemed an admission of the violation, and the penalty
5 by the local jurisdiction may be imposed. The disciplined
6 contractor may appeal this local jurisdiction action to the
7 district court.

8 (e) It is legislative intent that any ordinances that
9 impose requirements for a licensed journeyman craftsman being
10 on the job site shall in their content and enforcement be
11 reasonable in requiring the presence of the journeyman
12 craftsman on the site daily, but not necessarily on an
13 uninterrupted basis, and should provide for and allow
14 reasonable interruptions to that presence so long as the
15 supervisory goal of the ordinance is not endangered.

16 (f)(c) The local government may also deny issuance of,
17 or may suspend, any outstanding building permit where a
18 contractor fails or refuses to provide proof of public
19 liability and property damage insurance coverage as required
20 by s. 489.115(5) and workers' compensation insurance coverage
21 as required by s. 489.114.

22 (g)(d) It is the policy of the state that the purpose
23 of regulation is to protect the public by attaining compliance
24 with the policies established in law. Fines and other
25 penalties are provided in order to ensure compliance; however,
26 the collection of fines and the imposition of penalties are
27 intended to be secondary to the primary goal of attaining
28 compliance with state laws and local jurisdiction ordinances.
29 It is the intent of the Legislature that a local jurisdiction
30 agency charged with enforcing regulatory laws shall issue a
31 notice of noncompliance as its first response to a minor

1 violation of a regulatory law in any instance in which it is
2 reasonable to assume that the violator was unaware of such a
3 law or unclear as to how to comply with it. A violation of a
4 regulatory law is a "minor violation" if it does not result in
5 economic or physical harm to a person or adversely affect the
6 public health, safety, or welfare or create a significant
7 threat of such harm. A "notice of noncompliance" is a
8 notification by the local jurisdiction agency charged with
9 enforcing the ordinance, which is issued to the licensee that
10 is subject to the ordinance. A notice of noncompliance should
11 not be accompanied with a fine or other disciplinary penalty.
12 It should identify the specific ordinance that is being
13 violated, provide information on how to comply with the
14 ordinance, and specify a reasonable time for the violator to
15 comply with the ordinance. Failure of a licensee to take
16 action correcting the violation within a set period of time
17 would then result in the institution of further disciplinary
18 proceedings.

19 Section 3. Section 489.5185, Florida Statutes, is
20 created to read:

21 489.5185 Journeyman craftsmen; local government
22 authority and restrictions.--

23 (1) A county or municipal government may enact and
24 enforce, upon registered and certified contractors, ordinances
25 relating to journeyman craftsmen, including journeyman
26 craftsman qualifications and requirements that journeyman
27 craftsmen be present on each job site. However, after October
28 1, 1998, if a local jurisdiction enacts a requirement that
29 journeyman craftsmen be present on a job site, or if the local
30 government increases its existing requirement to require the
31 presence of journeyman craftsmen in a different number or

1 proportion than required before October 1, 1998, the enacting
2 body must find that it has been shown that, to meet the
3 requirement that the ordinance imposes, an adequate licensed
4 manpower exists and is available in the region comprised of
5 that jurisdiction plus any directly adjacent jurisdiction, and
6 the enacting body must also make a finding that such an
7 ordinance is necessary to protect the safety, health, and
8 welfare of the public.

9 (2) On residential construction, the term "job site,"
10 for the purposes of this section, may be construed as all the
11 one-family or two-family dwellings constructed in one planned
12 unit project by one contractor.

13 (3) Any certified or registered electrical contractor
14 shall be considered fully qualified as a journeyman craftsman
15 for purposes of any ordinance requiring a journeyman craftsman
16 to be present on a job site.

17 Section 4. Subsection (3) of section 489.516, Florida
18 Statutes, is amended to read:

19 489.516 Qualifications to practice; restrictions;
20 prerequisites.--

21 (3)(a) When a certificateholder desires to engage in
22 contracting in any area of the state, as a prerequisite
23 therefor, he or she shall only be required to exhibit to the
24 local building official, tax collector, or other authorized
25 person in charge of the issuance of licenses and building or
26 electrical permits in the area evidence of holding a current
27 certificate, and to pay the fee for the occupational license
28 and permit required of other persons. However, a local
29 construction regulation board may deny the issuance of an
30 electrical permit to a certified contractor, or issue a permit
31 with specific conditions, if the local construction regulation

1 board has found such contractor, through the public hearing
2 process, to be guilty of fraud, guilty of violating the local
3 jurisdiction's requirement that journeyman craftsmen be
4 present on a job site, or guilty of a willful building code
5 violation within the county or municipality that the local
6 construction regulation board represents, or if the local
7 construction regulation board has proof that such contractor,
8 through the public hearing process, has been found guilty, in
9 another county or municipality within the past 12 months, of
10 fraud, of violating the local jurisdiction's requirement that
11 journeyman craftsmen be present on a job site, or a willful
12 building code violation and finds, after providing notice to
13 the contractor, that such fraud or violation would have been
14 fraud or a violation if committed in the county or
15 municipality that the local construction board represents.
16 Notification of and information concerning such permit denial
17 shall be submitted to the Department of Business and
18 Professional Regulation within 15 days after the local
19 construction regulation board decides to deny the permit.

20 (b) When a local jurisdiction takes disciplinary
21 action against a certified contractor for violation of its
22 ordinance requiring journeyman craftsmen on the job site, the
23 contractor may appeal that decision to the Electrical
24 Contractors Licensing Board. If appealed, an appeal must be
25 filed within 14 days after the issuance of the penalty by the
26 local jurisdiction. If appealed, there is a presumptive
27 finding of probable cause by the Electrical Contractors
28 Licensing Board, and the case may proceed without the need for
29 a probable cause hearing. The contractor appealing the local
30 jurisdiction action shall provide notice to the local
31 jurisdiction upon filing the appeal. Upon the local

1 jurisdiction's being provided this notice, its action is
2 stayed. The Electrical Contractors Licensing Board may uphold,
3 reverse, or modify the penalty imposed by the local
4 jurisdiction. Upon appeal, in addition to any penalty imposed
5 by the local jurisdiction, the Electrical Contractors
6 Licensing Board shall consider failure to comply with the
7 local jurisdiction's journeyman craftsman on-site requirements
8 an offense subject to penalties provided in s. 489.533. Upon
9 conclusion of the appeal process, the penalty imposed by the
10 local jurisdiction shall take effect, unless reversed or
11 modified by the Electrical Contractors Licensing Board. The
12 Electrical Contractors Licensing Board shall notify the local
13 jurisdiction of its action.

14 (c) Failure of the disciplined contractor to challenge
15 the local jurisdiction's penalty for violating its journeyman
16 craftsman on-site requirement within the time period set forth
17 in this subsection constitutes a waiver of the right to appeal
18 before the Electrical Contractors Licensing Board. This waiver
19 shall be deemed an admission of the violation, and the penalty
20 by the local jurisdiction may be imposed. The disciplined
21 contractor may appeal this local jurisdiction action to the
22 district court.

23 (d) It is legislative intent that any ordinances that
24 impose requirements for a licensed journeyman craftsman being
25 on the job site shall in their content and enforcement be
26 reasonable in requiring the presence of the journeyman on the
27 site daily, but not necessarily on an uninterrupted basis, and
28 should provide for and allow reasonable interruptions to that
29 presence so long as the supervisory goal of the ordinance is
30 not endangered.

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1 Section 5. This act shall take effect upon becoming a
2 law.

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5 SENATE SUMMARY

6 Authorizes local governments to adopt ordinances relating
7 to journeyman craftsmen, specifically including those
8 that require the presence of journeyman craftsmen at job
9 sites. Contractors and electrical and alarm system
10 contractors will be considered journeyman craftsmen for
11 the purposes of such ordinances. Provides for actions
12 against contractors and electrical and alarm system
13 contractors who have violated local ordinances relating
14 to journeyman craftsmen on job sites. Provides for
15 appeals of disciplinary actions to the Construction
16 Industry Licensing Board or the Electrical Contractors
17 Licensing Board, as appropriate.
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