

By Representative Livingston

1 A bill to be entitled
2 An act relating to contracting; amending ss.
3 489.127 and 489.531, F.S.; providing for
4 similar penalties for unlicensed violations
5 with respect to construction contracting and
6 electrical contracting; providing for
7 additional penalties for certain violations;
8 providing an effective date.

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

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12 Section 1. Subsections (1) and (2) of section 489.127,
13 Florida Statutes, 1996 Supplement, are amended to read:

14 489.127 Prohibitions; penalties.--

15 (1) No person shall:

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

18 (b) Falsely impersonate a certificateholder or
19 registrant;

20 (c) Present as his own the certificate or registration
21 of another;

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

24 (e) Use or attempt to use a certificate or
25 registration which has been suspended or revoked;

26 (f) Engage in the business or act in the capacity of a
27 contractor or advertise himself or a business organization as
28 available to engage in the business or act in the capacity of
29 a contractor without being duly registered or certified;

30 (g) Operate a business organization engaged in
31 contracting after 60 days following the termination of its

1 only qualifying agent without designating another primary
2 qualifying agent, except as provided in ss. 489.119 and
3 489.1195;

4 (h) Commence or perform work for which a building
5 permit is required pursuant to an adopted state minimum
6 building code without such building permit being in effect; or

7 (i) Willfully or deliberately disregard or violate any
8 municipal or county ordinance relating to uncertified or
9 unregistered contractors.

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11 For purposes of this subsection, a person or business
12 organization operating on an inactive or suspended certificate
13 or registration, ~~or operating beyond the scope of work or~~
14 ~~geographical scope of the registration,~~ is not duly certified
15 or registered, and is considered unlicensed.

16 (2)(a) Any unlicensed person who violates any of the
17 provisions of subsection (1) commits a misdemeanor of the
18 first degree, punishable as provided in s. 775.082 or s.
19 775.083.

20 (b) Any unlicensed person who performs, offers to
21 perform, or contracts to perform work which requires licensure
22 under this part, and the value of which exceeds \$1,000,
23 commits a felony of the third degree, punishable as provided
24 in s. 775.082 or s. 775.083.

25 (c) ~~(b)~~ Any unlicensed person who commits a violation
26 of ~~paragraphs~~ subsection (1)(a)-(f) after having been
27 previously found guilty of such violation, regardless of
28 adjudication thereof, commits a felony of the third degree,
29 punishable as provided in s. 775.082 or s. 775.083.

30 (d) ~~(c)~~ Any unlicensed person who commits a violation
31 of ~~paragraphs~~ subsection (1)(a)-(f) during the existence of a

1 state of emergency declared by executive order of the Governor
2 commits a felony of the third degree, punishable as provided
3 in s. 775.082 or s. 775.083.

4 (e)~~(d)~~ Any person who operates as a pollutant storage
5 systems contractor, precision tank tester, or internal
6 pollutant storage tank lining applicator in violation of
7 subsection (1) commits a felony of the third degree,
8 punishable as provided in s. 775.082 or s. 775.083.

9 (f) Any licensed contractor who willfully operates
10 outside the geographical scope of his or her registration, or
11 who operates outside of the scope of work permitted by his or
12 her certificate or registration, commits a misdemeanor of the
13 first degree, punishable as provided in s. 775.082 or s.
14 775.083.

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16 The remedies set forth in this subsection are not exclusive
17 and may be imposed in addition to the remedies set forth in s.
18 489.129(2). Prosecution under this part does not preclude
19 prosecution under any other applicable criminal statute.

20 Section 2. Subsections (1) and (2) of section 489.531,
21 Florida Statutes, are amended to read:

22 489.531 Prohibitions; penalties.--

23 (1) A person may not:

24 (a) Practice contracting unless the person is
25 certified or registered;

26 (b) Use the name or title "electrical contractor" or
27 "alarm system contractor" or words to that effect, or
28 advertise himself or a business organization as available to
29 practice electrical or alarm system contracting, when the
30 person is not then the holder of a valid certification or
31 registration issued pursuant to this part;

- 1 (c) Present as his own the certificate or registration
2 of another;
- 3 (d) Use or attempt to use a certificate or
4 registration that has been suspended, revoked, or placed on
5 inactive or delinquent status;
- 6 (e) Employ persons who are not certified or registered
7 to practice contracting;
- 8 (f) Knowingly give false or forged evidence to the
9 department, the board, or a member thereof;
- 10 (g) Operate a business organization engaged in
11 contracting after 60 days following the termination of its
12 only qualifying agent without designating another primary
13 qualifying agent;
- 14 (h) Conceal information relative to violations of this
15 part;
- 16 (i) Commence or perform work for which a building
17 permit is required under an adopted state minimum building
18 code without the building permit being in effect; or
- 19 (j) Willfully or deliberately disregard or violate any
20 municipal or county ordinance relating to uncertified or
21 unregistered contractors.

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23 For purposes of this subsection, a person or business
24 organization operating on an inactive or suspended certificate
25 or registration is considered unlicensed.

26 (2)(a) Any unlicensed person who violates any
27 provision of subsection (1) commits a misdemeanor of the first
28 degree, punishable as provided in s. 775.082 or s. 775.083.

29 (b) Any unlicensed person who performs, offers to
30 perform, or contracts to perform work which requires licensure
31 under this part, and the value of which exceeds \$1,000,

1 commits a felony of the third degree, punishable as provided
2 in s. 775.082 or s. 775.083.

3 (c) Any unlicensed person who commits a violation of
4 paragraphs (1)(a)-(f) after having been previously found
5 guilty of such violation, regardless of adjudication thereof,
6 commits a felony of the third degree, punishable as provided
7 in s. 775.082 or s. 775.083.

8 (d) Any unlicensed person who commits a violation of
9 paragraphs (1)(a)-(f) during the existence of a state of
10 emergency declared by executive order of the Governor commits
11 a felony of the third degree, punishable as provided in s.
12 775.082 or s. 775.083.

13 (e) Any licensed contractor who willfully operates
14 outside the geographical scope of his or her registration, or
15 who operates outside of the scope of work permitted by his or
16 her certificate or registration, commits a misdemeanor of the
17 first degree, punishable as provided in s. 775.082 or s.
18 775.083.

19
20 The remedies set forth in this subsection are not exclusive
21 and may be imposed in addition to the remedies set forth in s.
22 489.533(2). Prosecution under this part does not preclude
23 prosecution under any other applicable criminal statute.

24 Section 3. This act shall take effect October 1, 1997.

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27 HOUSE SUMMARY

28 Provides similar penalties for unlicensed violations with
29 respect to construction contracting and electrical
30 contracting. Provides a third degree felony penalty for
31 unlicensed work valued at more than \$1,000. See bill for
details.