

By the Committees on Comprehensive Planning, Local and Military Affairs; Regulated Industries; and Senator Dyer

316-1872-99

1 A bill to be entitled
2 An act relating to contracting; creating s.
3 489.13, F.S.; providing for disciplinary
4 procedures involving a judgment against
5 construction contractors; creating s. 489.5334,
6 F.S.; providing disciplinary procedures
7 involving a judgment against electrical and
8 alarm system contractors; creating s. 489.5591,
9 F.S.; providing applicability for disciplinary
10 proceedings involving mismanagement or
11 misconduct that causes financial harm to a
12 customer; providing an effective date.

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

16 Section 1. Section 489.13, Florida Statutes, is
17 created to read:

18 489.13 Disciplinary proceedings involving a
19 judgment.--

20 (1) Notwithstanding any other provision of this part
21 or chapter 455, this section applies to any disciplinary case
22 that involves any contractor who has an unsatisfied judgment
23 in violation of s. 489.129(1)(g).

24 (2) The department shall initiate disciplinary
25 proceedings involving an unsatisfied judgment against a
26 contractor when a judgment creditor files with the department:

- 27 (a) A complaint on a form prescribed by the board;
- 28 (b) A certified copy of the recorded judgment; and
- 29 (c) An affidavit signed under oath which states that
30 the judgment arises from the practice of the judgment debtor's
31 profession licensed under this part, that the judgment remains

1 unsatisfied, and that the judgment has been final for more
2 than 30 days.

3 (3) Within 20 days after the date the department
4 receives a completed complaint, a certified copy of the
5 judgment, and the required affidavit, the department shall
6 issue and serve on the contractor an order that requires the
7 contractor to show cause why the contractor's license should
8 not be suspended until the judgment is satisfied. The
9 department shall serve the order to show cause in accordance
10 with s. 489.124(3). The order to show cause shall require the
11 contractor to respond in writing under oath within 20 days
12 after the date the order is served on the contractor.

13 (4) If the contractor fails to respond under oath to
14 the order to show cause within the 20-day period, the case
15 shall be referred to the board for final action.

16 (5) If the contractor responds under oath to the order
17 to show cause within the 20-day period and the contractor does
18 not dispute the allegations in the complaint, the case shall
19 be referred to the board for final action.

20 (6) Upon a finding of a violation of s. 489.129(1)(g),
21 the board shall suspend the contractor's license until the
22 judgment is satisfied, unless the board finds that aggregating
23 or mitigating factors support a different penalty.

24 (7) If the contractor responds under oath to the order
25 to show cause within the 20-day period and the response
26 disputes the allegations in the complaint and requests a
27 hearing, the department shall refer the case to an
28 investigator.

29 (8) The board shall provide the licensee and the
30 judgment creditor with notice of when and where the board will
31 consider taking action on the complaint. The licensee and the

1 judgment creditor may, but are not required to, participate in
2 such a meeting. The board shall provide the licensee and the
3 judgment creditor with copies of all actions taken by the
4 board in connection with the disciplinary proceeding.

5 Section 2. Section 489.5334, Florida Statutes, is
6 created to read:

7 489.5334 Disciplinary proceedings involving a
8 judgment.--

9 (1) Notwithstanding any other provision of this part
10 or chapter 455, this section applies to any disciplinary case
11 that involves any contractor who has an unsatisfied judgment
12 in violation of s. 489.533(1)(m)4.

13 (2) The department shall initiate disciplinary
14 proceedings involving an unsatisfied judgment against a
15 contractor when the judgment creditor files with the
16 department:

17 (a) A complaint on a form prescribed by the board;
18 (b) A certified copy of the recorded judgment; and
19 (c) An affidavit signed under oath which states that
20 the judgment arises from the practice of the judgment debtor's
21 profession licensed under this part, that the judgment remains
22 unsatisfied, and that the judgment has been final for more
23 than 30 days.

24 (3) Within 20 days after the date the department
25 receives a completed complaint, a certified copy of the
26 judgment, and the required affidavit, the department shall
27 issue and serve on the contractor an order that requires the
28 contractor to show cause why the contractor's license should
29 not be suspended until the judgment is satisfied. The
30 department shall serve the order to show cause in accordance
31 with s. 489.124(3). The order to show cause shall require the

1 contractor to respond in writing under oath within 20 days
2 after the date the order is served on the contractor.

3 (4) If the contractor fails to respond under oath to
4 the order to show cause within the 20-day period, the case
5 shall be referred to the board for final action.

6 (5) If the contractor responds under oath to the order
7 to show cause within the 20-day period and the contractor does
8 not dispute the allegations in the complaint, the case shall
9 be referred to the board for final action.

10 (6) Upon a finding of a violation of s. 489.129(1)(g),
11 the board shall suspend the contractor's license until the
12 judgment is satisfied, unless the board finds that aggregating
13 or mitigating factors support a different penalty.

14 (7) If the contractor responds under oath to the order
15 to show cause within the 20-day period and the response
16 disputes the allegations in the complaint and requests a
17 hearing, the department shall refer the case to an
18 investigator.

19 (8) As used in this part, the term "contractor" refers
20 to any person licensed under chapter 489, part II, regardless
21 of whether that person is performing as a contractor, a
22 subcontractor, or a sub-subcontractor on a project.

23 (9) The board shall provide the licensee and the
24 judgment creditor with notice of when and where the board will
25 consider action on the complaint. The licensee and the
26 judgment creditor may, but are not required to, participate in
27 such a meeting. The board shall provide the licensee and the
28 judgment creditor with copies of all actions taken by the
29 board in connection with the disciplinary proceeding.

30 Section 3. Section 489.5591, Florida Statutes, is
31 created to read:

1 489.5591 Disciplinary proceedings involving a
2 judgment.--Any person licensed under this part is subject to
3 disciplinary action for any violation of s. 489.129(1)(q) and
4 is subject to the disciplinary proceedings set out in s.
5 489.13.

6 Section 4. This act shall take effect July 1, 1999,
7 and shall apply to judgments entered on or after that date.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 CS/SB 1284

12 The CS to the CS differs from the CS in the following ways:

13 If the contractor fails to respond to the order issued by DBPR
14 within 20 days, the case is referred to the board for final
15 action rather than requiring the board to suspend the
16 contractor's license until the judgment and DBPR processing
17 costs are paid;

18 If the contractor responds to the order to show cause within
19 the 20 day period, the case is referred to the board for final
20 action rather than requiring the department to provide a
21 response to the judgment creditor;

22 Allows the board discretion in suspending the license if
23 aggregating or mitigating factors support a different penalty;
24 and

25 Requires the board to refer the case to an investigator,
26 rather than to conduct a hearing or refer the complaint to the
27 Division of Administrative Hearings, when the contractor's
28 response to the order disputes the allegations in the
29 complaint.
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