

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

309-2135-99

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A bill to be entitled
An act relating to contracting; creating s.
489.13, F.S.; providing for disciplinary
procedures involving a judgment against
construction contractors; creating s. 489.5334,
F.S.; providing disciplinary procedures
involving a judgment against electrical and
alarm system contractors; providing an
effective date.

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

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

489.13 Disciplinary proceedings involving a
judgment.--

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

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

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

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

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

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

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

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

27 (8) The board shall provide the licensee and the
28 judgment creditor with notice of when and where the board will
29 consider taking action on the complaint. The licensee and the
30 judgment creditor may, but are not required to, participate in
31 such a meeting. The board shall provide the licensee and the

1 judgment creditor with copies of all actions taken by the
2 board in connection with the disciplinary proceeding.

3 Section 2. Section 489.5334, Florida Statutes, is
4 created to read:

5 489.5334 Disciplinary proceedings involving a
6 judgment.--

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

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

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

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

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

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

8 (6) Upon a finding of a violation of s.
9 489.533(1)(m)4., the board shall suspend the contractor's
10 license until the judgment is satisfied, unless the board
11 finds that aggravating or mitigating factors support a
12 different penalty.

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

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

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

29 Section 3. This act shall take effect July 1, 1999,
30 and shall apply to judgments entered on or after that date.

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

Deletes requirement that the Department of Health discipline septic tank contractors that violate s. 489.129(1)(q), F.S., 1998 Supplement, using the procedures set out in section 1 of the bill.