

Bill No. CS for SB 2268

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Clary moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 6, between lines 18 and 19,		
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16	insert:		
17	Section 7. Subsection (1) of section 489.129, Florida		
18	Statutes, 1998 Supplement, is amended to read:		
19	489.129 Disciplinary proceedings.--		
20	(1) The board may take any of the following actions		
21	against any certificateholder or registrant: place on		
22	probation or reprimand the licensee, revoke, suspend, or deny		
23	the issuance or renewal of the certificate, registration, or		
24	certificate of authority, require financial restitution to a		
25	consumer for financial harm directly related to a violation of		
26	a provision of this part, impose an administrative fine not to		
27	exceed \$5,000 per violation, require continuing education, or		
28	assess costs associated with investigation and prosecution, if		
29	the contractor, financially responsible officer, or business		
30	organization for which the contractor is a primary qualifying		
31	agent, a financially responsible officer, or a secondary		

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1 qualifying agent responsible under s. 489.1195 is found guilty
2 of any of the following acts:

3 (a) Obtaining a certificate, registration, or
4 certificate of authority by fraud or misrepresentation.

5 (b) Being convicted or found guilty of, or entering a
6 plea of nolo contendere to, regardless of adjudication, a
7 crime in any jurisdiction which directly relates to the
8 practice of contracting or the ability to practice
9 contracting.

10 (c) Violating any provision of part I of chapter 455.

11 (d) Performing any act which assists a person or
12 entity in engaging in the prohibited uncertified and
13 unregistered practice of contracting, if the certificateholder
14 or registrant knows or has reasonable grounds to know that the
15 person or entity was uncertified and unregistered.

16 (e) Knowingly combining or conspiring with an
17 uncertified or unregistered person by allowing his or her
18 certificate, registration, or certificate of authority to be
19 used by the uncertified or unregistered person with intent to
20 evade the provisions of this part. When a certificateholder
21 or registrant allows his or her certificate or registration to
22 be used by one or more business organizations without having
23 any active participation in the operations, management, or
24 control of such business organizations, such act constitutes
25 prima facie evidence of an intent to evade the provisions of
26 this part.

27 (f) Acting in the capacity of a contractor under any
28 certificate or registration issued hereunder except in the
29 name of the certificateholder or registrant as set forth on
30 the issued certificate or registration, or in accordance with
31 the personnel of the certificateholder or registrant as set

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1 forth in the application for the certificate or registration,
2 or as later changed as provided in this part.

3 (g) Committing mismanagement or misconduct in the
4 practice of contracting that causes financial harm to a
5 customer. Financial mismanagement or misconduct occurs when:

6 1. Valid liens have been recorded against the property
7 of a contractor's customer for supplies or services ordered by
8 the contractor for the customer's job; the contractor has
9 received funds from the customer to pay for the supplies or
10 services; and the contractor has not had the liens removed
11 from the property, by payment or by bond, within 75 days after
12 the date of such liens;

13 2. The contractor has abandoned a customer's job and
14 the percentage of completion is less than the percentage of
15 the total contract price paid to the contractor as of the time
16 of abandonment, unless the contractor is entitled to retain
17 such funds under the terms of the contract or refunds the
18 excess funds within 30 days after the date the job is
19 abandoned; or

20 3. The contractor's job has been completed, and it is
21 shown that the customer has had to pay more for the contracted
22 job than the original contract price, as adjusted for
23 subsequent change orders, unless such increase in cost was the
24 result of circumstances beyond the control of the contractor,
25 was the result of circumstances caused by the customer, or was
26 otherwise permitted by the terms of the contract between the
27 contractor and the customer.

28 (h) Being disciplined by any municipality or county
29 for an act or violation of this part.

30 (i) Failing in any material respect to comply with the
31 provisions of this part or violating a rule or lawful order of

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1 the board.

2 (j) Abandoning a construction project in which the
3 contractor is engaged or under contract as a contractor. A
4 project may be presumed abandoned after 90 days if the
5 contractor terminates the project without just cause or
6 without proper notification to the owner, including the reason
7 for termination, or fails to perform work without just cause
8 for 90 consecutive days.

9 (k) Signing a statement with respect to a project or
10 contract falsely indicating that the work is bonded; falsely
11 indicating that payment has been made for all subcontracted
12 work, labor, and materials which results in a financial loss
13 to the owner, purchaser, or contractor; or falsely indicating
14 that workers' compensation and public liability insurance are
15 provided.

16 (l) Committing fraud or deceit in the practice of
17 contracting.

18 (m) Committing incompetency or misconduct in the
19 practice of contracting.

20 (n) Committing gross negligence, repeated negligence,
21 or negligence resulting in a significant danger to life or
22 property.

23 (o) Proceeding on any job without obtaining applicable
24 local building department permits and inspections.

25 (p) Intimidating, threatening, coercing, or otherwise
26 discouraging the service of a notice to owner under part I of
27 chapter 713 or a notice to contractor under chapter 255 or
28 part I of chapter 713.

29 (q) Failing to satisfy within a reasonable time, the
30 terms of a civil judgment obtained against the licensee, or
31 the business organization qualified by the licensee, relating

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1 to the practice of the licensee's profession.

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3 For the purposes of this subsection, construction is
4 considered to be commenced when the contract is executed and
5 the contractor has accepted funds from the customer or lender.

6 A contractor does not commit a violation of this subsection
7 when the contractor relies on a building code interpretation
8 rendered by a building official or person authorized by s.
9 553.80 to enforce the building code, absent a finding of fraud
10 or deceit in the practice of contracting, or gross negligence,
11 repeated negligence, or negligence resulting in a significant
12 danger to life or property on the part of the building
13 official, in a proceeding under chapter 120.

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15 (Redesignate subsequent sections.)

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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1, line 20, after the semicolon

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22 insert:

23 amending s. 489.129, F.S.; providing certain
24 legal protection to a contractor relying on a
25 building code interpretation rendered by
26 certain officials;

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