

By the Committee on Business Regulation & Consumer Affairs  
and Representative J. Miller

1                                   A bill to be entitled  
2           An act relating to contracting; creating s.  
3           489.13, F.S.; providing requirements for  
4           disciplinary proceedings involving a judgment  
5           against a construction contractor; creating s.  
6           489.5334, F.S.; providing requirements for  
7           disciplinary proceedings involving a judgment  
8           against an electrical or alarm system  
9           contractor; creating s. 489.5591, F.S.;  
10          providing applicability to septic tank  
11          contractors of certain disciplinary action and  
12          proceedings involving a judgment against such a  
13          contractor; providing an effective date.

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

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

19           489.13 Disciplinary proceedings involving a  
20 judgment.--

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

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

28           (a) A complaint on a form prescribed by the board;

29           (b) A certified copy of the recorded judgment; and

30           (c) An affidavit signed under oath which states that

31 the judgment arises from the practice of the judgment debtor's

1 profession licensed under this part, that the judgment remains  
2 unsatisfied, and that the judgment has been final for more  
3 than 30 days.

4 (3) Within 10 days after the date the department  
5 receives a completed complaint, a certified copy of the  
6 judgment, and the required affidavit, the department shall  
7 issue and serve on the contractor an order that requires the  
8 contractor to show cause why the contractor's license should  
9 not be suspended until the judgment is satisfied. The order to  
10 show cause shall require the contractor to respond in writing  
11 under oath within 20 days after the date the order is served  
12 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 board  
15 shall immediately enter a final order suspending the  
16 contractor's license until the contractor satisfies the  
17 judgment and pays the department the costs incurred in  
18 connection with processing the complaint.

19 (5) If the contractor responds under oath to the order  
20 to show cause within the 20-day period, a copy of the response  
21 shall be provided to the judgment creditor.

22 (6) The department shall forward the complaint and the  
23 contractor's response to the board. The board shall determine  
24 whether the contractor is in violation of s. 489.129(1)(q). If  
25 the board finds that a violation has occurred, the board shall  
26 suspend the contractor's license until the judgment has been  
27 satisfied and the contractor reimburses the board for the  
28 costs incurred in connection with processing the complaint.  
29 The board may impose such other penalties as it considers  
30 appropriate, consistent with its penalty guidelines.

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1           (7) The contractor may request a hearing on the  
2 complaint if genuine issues of material fact exist concerning  
3 the elements of the violation. If the board finds that genuine  
4 issues of material fact exist, it may conduct the hearing or  
5 refer the complaint to the Division of Administrative  
6 Hearings.

7           (8) The board shall provide the licensee and the  
8 judgment creditor with notice of when and where the board will  
9 consider taking action on the complaint. The licensee and the  
10 judgment creditor may, but are not required to, participate in  
11 such a meeting. The board shall provide the licensee and the  
12 judgment creditor with copies of all actions taken by the  
13 board in connection with the disciplinary proceeding.

14           Section 2. Section 489.5334, Florida Statutes, is  
15 created to read:

16           489.5334 Disciplinary proceedings involving a  
17 judgment.--

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

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

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

3 (3) Within 10 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 order to  
9 show cause shall require the contractor to respond in writing  
10 under oath within 20 days after the date the order is served  
11 on the contractor.

12 (4) If the contractor fails to respond under oath to  
13 the order to show cause within the 20-day period, the board  
14 shall immediately enter a final order suspending the  
15 contractor's license until the contractor satisfies the  
16 judgment and pays the department the costs incurred in  
17 connection with processing the complaint.

18 (5) If the contractor responds under oath to the order  
19 to show cause within the 20-day period, a copy of the response  
20 shall be provided to the judgment creditor.

21 (6) The department shall forward the complaint and the  
22 contractor's response to the board. The board shall determine  
23 whether the contractor is in violation of s. 489.533(1)(m)4.  
24 If the board finds that a violation has occurred, the board  
25 shall suspend the contractor's license until the judgment has  
26 been satisfied and the contractor reimburses the board for the  
27 costs incurred in connection with processing the complaint.  
28 The board may impose such other penalties as it considers  
29 appropriate, consistent with its penalty guidelines.

30 (7) The contractor may request a hearing on the  
31 complaint if genuine issues of material fact exist concerning

1 the elements of the violation. If the board finds that genuine  
2 issues of material fact exist, it may conduct the hearing or  
3 refer the complaint to the Division of Administrative  
4 Hearings.

5 (8) As used in this part, the term "contractor" refers  
6 to any person licensed under this part, regardless of whether  
7 that person is performing as a contractor, a subcontractor, or  
8 a sub-subcontractor on a project.

9 (9) The board shall provide the licensee and the  
10 judgment creditor with notice of when and where the board will  
11 consider action on the complaint. The licensee and the  
12 judgment creditor may, but are not required to, participate in  
13 such a meeting. The board shall provide the licensee and the  
14 judgment creditor with copies of all actions taken by the  
15 board in connection with the disciplinary proceeding.

16 Section 3. Section 489.5591, Florida Statutes, is  
17 created to read:

18 489.5591 Disciplinary proceedings involving a  
19 judgment.--Any person licensed under this part is subject to  
20 disciplinary action for any violation of s. 489.129(1)(q) and  
21 is subject to the disciplinary proceedings set out in s.  
22 489.13.

23 Section 4. This act shall take effect July 1, 1999.  
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