

1 A bill to be entitled
2 An act relating to construction; amending s.
3 218.72, F.S.; redefining the terms "local
4 government entity," "purchase," and
5 "construction services" and defining the terms
6 "payment request" and "agent" for the purpose
7 of the Florida Prompt Payment Act; amending s.
8 218.73, F.S.; providing for timely payment for
9 nonconstruction services; amending s. 218.735,
10 F.S.; revising language with respect to timely
11 payment for purchases of construction services;
12 amending s. 218.74, F.S.; revising language
13 with respect to procedures for calculation of
14 payment due dates; amending s. 218.75, F.S.;
15 revising language with respect to mandatory
16 interest; amending s. 218.76, F.S.; revising
17 language with respect to improper invoices and
18 resolution of disputes; providing for the
19 recovery of court costs and attorney's fees
20 under certain circumstances; amending s.
21 255.05, F.S.; revising language with respect to
22 the bond of a contractor constructing public
23 buildings; requiring the Office of Program
24 Policy Analysis and Government Accountability,
25 in consultation with the Legislative Committee
26 on Intergovernmental Relations, to conduct a
27 study of construction retainage methods;
28 specifying areas to be examined; requiring
29 study conclusions and recommendations;
30 amending s. 399.061, F.S.; privatizing elevator
31 inspection services; amending s. 399.13, F.S.;

1 correcting a reference with regard to the
 2 inspection code; amending s. 468.603, F.S.;
 3 redefining "building code inspector" and
 4 "categories of building inspectors" and
 5 defining "building code enforcement official";
 6 revising intent with respect to the examination
 7 required for certification as a building code
 8 administrator, plans examiner, or building code
 9 inspector; increasing the validity period of a
 10 provisional certificate; clarifying to whom a
 11 provisional certificate may be issued;
 12 authorizing newly employed or hired persons
 13 applying for provisional certification to
 14 perform for a specified period the duties of a
 15 plans examiner or building code inspector under
 16 the direct supervision of a building code
 17 administrator holding limited or provisional
 18 certification in counties with populations
 19 below a specified level and the municipalities
 20 therein; deleting obsolete standard certificate
 21 equivalency provisions; providing for
 22 consistency in terminology; creating s.
 23 468.619, F.S.; establishing special
 24 disciplinary procedures for building code
 25 enforcement officials; amending ss. 112.3145,
 26 125.56, 212.08, 252.924, 404.056, 468.603,
 27 468.604, 468.605, 468.607, 468.617, 468.621,
 28 468.627, 468.631, 468.633, 471.045, 481.222,
 29 and 489.103, F.S.; providing for consistency in
 30 terminology; amending s. 489.107, F.S.; causing
 31 the Construction Industry Licensing Board to be

1 moved from Jacksonville to Leon County;
 2 amending s. 725.06, F.S.; providing for
 3 indemnification in construction contracts and
 4 voiding all others as being against public
 5 policy; amending s. 471.015, F.S.; establishing
 6 rule-making authority related to special
 7 inspectors of threshold buildings; amending s.
 8 471.025, F.S.; adding a circumstance under
 9 which engineering documents must be sealed;
 10 amending s. 481.213, F.S.; providing authority
 11 for the board to develop qualifications for
 12 special inspectors of threshold buildings;
 13 amending s. 489.13, F.S.; providing additional
 14 disciplinary penalties for unlicensed
 15 electrical or alarm system contracting;
 16 amending s. 489.105, F.S.; revising the scope
 17 of work of commercial and residential pool/spa
 18 contractors and swimming pool/spa servicing
 19 contractors; amending s. 489.118, F.S.;
 20 limiting the time period during which
 21 registered applicants must apply to receive
 22 certification; amending s. 489.128, F.S.;
 23 eliminating an exemption from a provision
 24 invalidating contracts with unlicensed
 25 contractors; amending s. 489.503, F.S.;
 26 revising exemptions from regulation under pt.
 27 II, ch. 489, F.S., relating to electrical and
 28 alarm system contracting; amending s. 489.505,
 29 F.S.; revising the definition of "personal
 30 emergency response system"; amending s.
 31 489.507, F.S.; limiting the rule making

1 authority of the Electrical Contractors
2 Licensing Board; amending s. 489.514, F.S.;
3 revising grandfathering provisions for
4 certification of registered electrical and
5 alarm system contractors; amending s. 489.5185,
6 F.S.; providing that persons who perform only
7 monitoring are not required to complete the
8 training required for fire alarm system agents;
9 amending s. 489.522, F.S.; providing
10 requirements when a qualifying agent ceases to
11 qualify a business; amending s. 489.531, F.S.;
12 providing penalties for violations by
13 unlicensed persons of acts prohibited under pt.
14 II, ch. 489, F.S., relating to electrical and
15 alarm system contracting; amending s. 489.532,
16 F.S.; eliminating an exemption from a provision
17 invalidating contracts with unlicensed
18 contractors; amending s. 553.71, F.S.; defining
19 "special inspector;" amending 553.79, F.S.;
20 moving regulation of special inspectors of
21 threshold buildings from the Department of
22 Community Affairs to the Board of Professions
23 Engineers and the Board of Architecture and
24 Interior Design; amending s. 633.021, F.S.;
25 adding a definition of "layout"; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29
30
31

1 Section 1. Subsections (2), (5), and (7) of section
2 218.72, Florida Statutes, are amended, and subsections (8) and
3 (9) are added to said section, to read:

4 218.72 Definitions.--As used in this part:

5 (2) "Local governmental entity" means a county or
6 municipal government, school board, school district,
7 authority, special taxing district, other political
8 subdivision, community college, or any office, board, bureau,
9 commission, department, branch, division, or institution
10 thereof or any project supported by county or municipal funds.

11 (5) "Purchase" means the purchase of goods, or
12 services, or construction services, the purchase or lease of
13 personal property, or the lease of real property by a local
14 governmental entity.

15 (7) "Construction services" means all labor, services,
16 and materials provided ~~performed~~ in connection with the
17 construction, alteration, repair, demolition, reconstruction,
18 or any other improvements to real property that require a
19 license under parts I and II of chapter 489.

20 (8) "Payment request" means a request for payment for
21 construction services which conforms with all statutory
22 requirements and with all requirements specified by the local
23 governmental entity to which the payment request is submitted
24 if:

25 (a) Such requirements have been adopted by formal
26 action of the local governmental entity taken prior to the
27 transaction to which the payment request applies.

28 (b) The local governmental entity made such
29 requirements available to vendors.

1 (9) "Agent" means project architect, project engineer,
2 or any other agency or person acting on behalf of the local
3 governmental entity.

4 Section 2. Section 218.73, Florida Statutes, is
5 amended to read:

6 218.73 Timely payment for nonconstruction
7 services.--The time at which payment is due for a purchase
8 other than construction services by a local governmental
9 entity, ~~except for the purchase of construction services, is~~
10 ~~due~~ must be calculated from:

11 (1) The date on which a proper invoice is received by
12 the chief disbursement officer of the local governmental
13 entity after approval by the governing body, if required; or

14 (2) If a proper invoice is not received by the local
15 governmental entity, the date:

16 (a) On which delivery of personal property is accepted
17 by the local governmental entity;

18 (b) On which services are completed;

19 (c) On which the rental period begins; or

20 (d) On which the local governmental entity and vendor
21 agree in a contract that provides dates relative to payment
22 periods;

23
24 whichever date is latest.

25 Section 3. Section 218.735, Florida Statutes, is
26 amended to read:

27 218.735 Timely payment for purchases of construction
28 services.--

29 (1) The due date for payment for the purchase of
30 construction services by a local governmental entity is
31 determined as follows:

1 (a) If an agent ~~the project architect or project~~
2 ~~engineer~~ must approve the payment request or invoice prior to
3 the payment request or invoice being submitted to the local
4 governmental entity, payment is due 25 ~~20~~ business days after
5 the date on which the payment request or ~~architect or engineer~~
6 ~~approves the invoice and the~~ invoice is stamped as received as
7 provided in s. 218.74(1).

8 (b) If an agent ~~the project architect or project~~
9 ~~engineer~~ need not approve the payment request or invoice which
10 is submitted by the contractor, payment is due 20 business
11 days after the date on which the payment request or invoice is
12 stamped as received as provided in s. 218.74(1).

13 (2) The local governmental entity may reject the
14 payment request or invoice within 20 business days after the
15 date on which the payment request or invoice is stamped as
16 received as provided in s. 218.74(1). The rejection must be
17 written and must specify the deficiency in the payment request
18 or invoice and the action necessary to make the payment
19 request or invoice proper.

20 (3) If a payment request or an invoice is rejected
21 under subsection (2) ~~or this subsection~~ and the contractor
22 submits a corrected payment request or invoice which corrects
23 the deficiency specified in writing by the local governmental
24 entity, the corrected payment request or invoice must be paid
25 or rejected on the later of:

26 (a) Ten business days after the date the corrected
27 payment request or invoice is stamped as received as provided
28 in s. 218.74(1); or

29 (b) If the governing body is required by ordinance,
30 charter, or other law to approve or reject the corrected
31 payment request or invoice, the first business day after the

1 next regularly scheduled meeting of the governing body held
2 after the corrected payment request or invoice is stamped as
3 received as provided in s. 218.74(1).

4 (4) If a dispute between the local governmental entity
5 and the contractor cannot be resolved by the procedure in
6 subsection (3), the dispute must be resolved in accordance
7 with the dispute resolution procedure prescribed in the
8 construction contract or in any applicable ordinance. In the
9 absence of a prescribed procedure, the dispute must be
10 resolved by the procedure specified in s. 218.76(2).

11 (5) If a local governmental entity disputes a portion
12 of a payment request or an invoice, the undisputed portion
13 shall be paid timely, in accordance with subsection (1).~~The~~
14 ~~payment time periods provided in this section for construction~~
15 ~~services purchased by a local governmental entity shall not~~
16 ~~affect contractual provisions or contractual covenants of a~~
17 ~~local governmental entity in effect on September 30, 1995.~~

18 (6) When a contractor receives payment from a local
19 governmental entity for labor, services, or materials
20 furnished by subcontractors and suppliers hired by the
21 contractor, the contractor shall remit payment due to those
22 subcontractors and suppliers within 15 days after the
23 contractor's receipt of payment. When a subcontractor
24 receives payment from a contractor for labor, services, or
25 materials furnished by subcontractors and suppliers hired by
26 the subcontractor, the subcontractor shall remit payment due
27 to those subcontractors and suppliers within 15 days after the
28 subcontractor's receipt of payment. Nothing herein shall
29 prohibit a contractor or subcontractor from disputing,
30 pursuant to the terms of the relevant contract, all or any
31 portion of a payment alleged to be due to another party. In

1 the event of such a dispute, the contractor or subcontractor
2 may withhold the disputed portion of any such payment but the
3 undisputed portion must be remitted within the time limits
4 imposed by this subsection.

5 (7)(6) All payments due under this section ~~from a~~
6 ~~local governmental entity~~ and not made within the time periods
7 period specified by this section shall bear interest at the
8 rate of 1 percent per month, or the rate specified by
9 contract, whichever is greater ~~as specified in s. 218.74(4).~~

10 Section 4. Section 218.74, Florida Statutes, is
11 amended to read:

12 218.74 Procedures for calculation of payment due
13 dates.--

14 (1) Each local governmental entity shall establish
15 procedures whereby each payment request or invoice received by
16 the local governmental entity is marked as received on the
17 date on which it is delivered to an agent or employee of the
18 local governmental entity or of a facility or office of the
19 local governmental entity.

20 (2) The payment due date for a local governmental
21 entity for the purchase of goods or services other than
22 construction services is 45 days after the date specified in
23 s. 218.73. The payment due date for the purchase of
24 construction services is specified in s. 218.735.

25 (3) If the terms under which a purchase is made allow
26 for partial deliveries and a payment request or proper invoice
27 is submitted for a partial delivery, the time for payment for
28 the partial delivery must be calculated from the time of the
29 partial delivery and the submission of the payment request or
30 invoice in the same manner as provided in s. 218.73 or s.
31 218.735.

1 (4) All payments, other than payments for construction
2 services, due from a local governmental entity and not made
3 within the time specified by this section bear interest from
4 30 days after the due date at the rate of 1 percent per month
5 on the unpaid balance. The vendor must invoice the local
6 governmental entity for any interest accrued in order to
7 receive the interest payment. Any overdue period of less than
8 1 month is considered as 1 month in computing interest.
9 Unpaid interest is compounded monthly. ~~With respect to each~~
10 ~~past due payment, interest ceases to accrue after interest on~~
11 ~~that payment has accrued for 12 months.~~ For the purposes of
12 this section, the term "1 month" means a period beginning on
13 any day of one month and ending on the same day of the
14 following month.

15 Section 5. Section 218.75, Florida Statutes, is
16 amended to read:

17 218.75 Mandatory interest.--No contract between a
18 local governmental entity and a vendor or a provider of
19 construction services shall prohibit the collection of vendor
20 ~~from invoicing the local governmental entity for late payment~~
21 interest charges allowable under this part.

22 Section 6. Section 218.76, Florida Statutes, is
23 amended to read:

24 218.76 Improper payment request or invoice; resolution
25 of disputes.--

26 (1) In any case in which an improper payment request
27 or invoice is submitted by a vendor, the local governmental
28 entity shall, within 10 days after the improper payment
29 request or invoice is received by it, notify the vendor that
30 the payment request or invoice is improper and indicate what
31

1 corrective action on the part of the vendor is needed to make
2 the payment request or invoice proper.

3 (2) In the event a dispute occurs between a vendor and
4 a local governmental entity concerning payment of a payment
5 request or an invoice, such disagreement shall be finally
6 determined by the local governmental entity as provided in
7 this section. Each local governmental entity shall establish
8 a dispute resolution procedure to be followed by the local
9 governmental entity in cases of such disputes. Such procedure
10 shall provide that proceedings to resolve the dispute shall be
11 commenced not later than 45 days after the date on which the
12 payment request or proper invoice was received by the local
13 governmental entity and shall be concluded by final decision
14 of the local governmental entity not later than 60 days after
15 the date on which the payment request or proper invoice was
16 received by the local governmental entity. Such procedures
17 shall not be subject to chapter 120, and such procedures shall
18 not constitute an administrative proceeding which prohibits a
19 court from deciding de novo any action arising out of the
20 dispute. If the dispute is resolved in favor of the local
21 governmental entity, then interest charges shall begin to
22 accrue 10 ~~15~~ days after the local governmental entity's final
23 decision. If the dispute is resolved in favor of the vendor,
24 then interest shall begin to accrue as of the original date
25 the payment became due.

26 (3) In an action to recover amounts due under s.
27 218.70-218.80, the prevailing party shall be entitled to
28 recover court costs and attorney's fees at trial and on
29 appeal.

1 Section 7. Paragraph (a) of subsection (1) and
2 paragraph (a) of subsection (2) of section 255.05, Florida
3 Statutes, are amended to read:

4 255.05 Bond of contractor constructing public
5 buildings; form; action by materialmen.--

6 (1)(a) Any person entering into a formal contract with
7 the state or any county, city, or political subdivision
8 thereof, or other public authority, for the construction of a
9 public building, for the prosecution and completion of a
10 public work, or for repairs upon a public building or public
11 work shall be required, before commencing the work or before
12 recommencing the work after a default or abandonment, to
13 execute, deliver to the public owner, and record in the public
14 records of the county where the improvement is located, a
15 payment and performance bond with a surety insurer authorized
16 to do business in this state as surety. The bond must state on
17 its front page: the name, principal business address, and
18 phone number of the contractor, the surety, the owner of the
19 property being improved, and, if different from the owner, the
20 contracting public entity; the contract number assigned by the
21 contracting public entity; and a description of the project
22 sufficient to identify it, such as including, if applicable, a
23 legal description or ~~and~~ the street address of the property
24 being improved, and a general description of the improvement.
25 Such bond shall be conditioned solely upon the contractor's
26 performance of the construction work ~~that the contractor~~
27 ~~perform the contract~~ in the time and manner prescribed in the
28 contract and the contractor's prompt payment ~~promptly make~~
29 ~~payments~~ to all persons defined in s. 713.01 who furnished
30 labor, services, or materials for ~~whose claims derive directly~~
31 ~~or indirectly from~~ the prosecution of the work provided for in

1 the contract. Any claimant may apply to the governmental
2 entity having charge of the work for copies of the contract
3 and bond and shall thereupon be furnished with a certified
4 copy of the contract and bond. The claimant shall have a right
5 of action against the contractor and surety for the amount due
6 him or her, including unpaid finance charges due under the
7 claimant's contract. Such action shall not involve the public
8 authority in any expense. When such work is done for the
9 state and the contract is for \$100,000 or less, no payment and
10 performance bond shall be required. At the discretion of the
11 official or board awarding such contract when such work is
12 done for any county, city, political subdivision, or public
13 authority, any person entering into such a contract which is
14 for \$200,000 or less may be exempted from executing the
15 payment and performance bond. When such work is done for the
16 state, the Secretary of the Department of Management Services
17 may delegate to state agencies the authority to exempt any
18 person entering into such a contract amounting to more than
19 \$100,000 but less than \$200,000 from executing the payment and
20 performance bond. In the event such exemption is granted, the
21 officer or officials shall not be personally liable to persons
22 suffering loss because of granting such exemption. The
23 Department of Management Services shall maintain information
24 on the number of requests by state agencies for delegation of
25 authority to waive the bond requirements by agency and project
26 number and whether any request for delegation was denied and
27 the justification for the denial.

28 (2)(a)1. If a claimant is no longer furnishing labor,
29 services, or materials on a project, a contractor or the
30 contractor's agent or attorney may elect to shorten the
31 prescribed time in this paragraph within which an action to

1 enforce any claim against a payment bond provided pursuant to
2 this section may be commenced by recording in the clerk's
3 office a notice in substantially the following form:

4
5 NOTICE OF CONTEST OF CLAIM
6 AGAINST PAYMENT BOND
7

8
9 To: ...(Name and address of claimant)...

10 You are notified that the undersigned contests your
11 notice of nonpayment, dated,, and served
12 on the undersigned on,, and that the
13 time within which you may file suit to enforce your claim is
14 limited to 60 days after the date of service of this notice.

15
16 DATED on,

17
18
19 Signed:...(Contractor or Attorney)...

20
21
22 The claim of any claimant upon whom such notice is served and
23 who fails to institute a suit to enforce his or her claim
24 against the payment bond within 60 days after service of such
25 notice shall be extinguished automatically. The clerk shall
26 mail a copy of the notice of contest to the claimant at the
27 address shown in the notice of nonpayment or most recent
28 amendment thereto and shall certify to such service on the
29 face of such notice and record the notice. Service is complete
30 upon mailing.

1 2. A claimant, except a laborer, who is not in privity
 2 with the contractor shall, before commencing or not later than
 3 45 days after commencing to furnish labor, materials, or
 4 supplies for the prosecution of the work, furnish the
 5 contractor with a notice that he or she intends to look to the
 6 bond for protection. A claimant who is not in privity with the
 7 contractor and who has not received payment for his or her
 8 labor, materials, or supplies shall deliver to the contractor
 9 and to the surety written notice of the performance of the
 10 labor or delivery of the materials or supplies and of the
 11 nonpayment. The notice of nonpayment may be served at any time
 12 during the progress of the work or thereafter but ~~not before~~
 13 ~~45 days after the first furnishing of labor, services, or~~
 14 ~~materials, and~~ not later than 90 days after the final
 15 furnishing of the labor, services, or materials by the
 16 claimant or, with respect to rental equipment, not later than
 17 90 days after the date that the rental equipment was last on
 18 the job site available for use. No action for the labor,
 19 materials, or supplies may be instituted against the
 20 contractor or the surety unless both notices have been given.
 21 Notices required or permitted under this section may be served
 22 in accordance with s. 713.18. An action, except for an action
 23 exclusively for recovery of retainage, must be instituted
 24 against the contractor or the surety on the payment bond or
 25 the payment provisions of a combined payment and performance
 26 bond within 1 year after the performance of the labor or
 27 completion of delivery of the materials or supplies. An action
 28 exclusively for recovery of retainage must be instituted
 29 against the contractor or the surety within 1 year after the
 30 performance of the labor or completion of delivery of the
 31 materials or supplies, or within 90 days after ~~the~~

1 ~~contractor's~~ receipt of final payment (or the payment estimate
 2 containing the owner's final reconciliation of quantities if
 3 no further payment is earned and due as a result of deductive
 4 adjustments) by the contractor or surety, whichever comes
 5 last. A claimant may not waive in advance his or her right to
 6 bring an action under the bond against the surety. In any
 7 action brought to enforce a claim against a payment bond under
 8 this section, the prevailing party is entitled to recover a
 9 reasonable fee for the services of his or her attorney for
 10 trial and appeal or for arbitration, in an amount to be
 11 determined by the court, which fee must be taxed as part of
 12 the prevailing party's costs, as allowed in equitable actions.
 13 The time periods for service of a notice of nonpayment or for
 14 bringing an action against a contractor or a surety shall be
 15 measured from the last day of furnishing labor, services, or
 16 materials by the claimant and shall not be measured by other
 17 standards, such as the issuance of a certificate of occupancy
 18 or the issuance of a certificate of substantial completion.

19 Section 8. Effective upon this act becoming a law, the
 20 Office of Program Policy Analysis and Government
 21 Accountability (OPPAGA), in consultation with the Legislative
 22 Committee on Intergovernmental Relations, shall:

23 (1) Conduct a study of construction retainage methods
 24 for public and private construction within the state of
 25 Florida. OPPAGA shall examine all relevant information,
 26 including, but not limited to the following:

27 (a) Information from various state and local
 28 governmental entities, public universities, and community
 29 colleges within the state of Florida.

30 (b) Information from the federal government and other
 31 states who have addressed construction payment or retainage

1 issues, including states that are of comparable size to the
2 state of Florida or that have a comparable amount of public or
3 private construction activity as the state of Florida.

4 (c) Information from public and private owners,
5 general contractors, subcontractors, material suppliers,
6 construction managers, design-build professionals, architects,
7 and engineers.

8 (d) Information from lenders and surety companies who
9 are involved in public and private construction.

10 (2) Draw conclusions and make recommendations, as
11 appropriate, with regard to the following issues:

12 (a) Whether the state should adopt new laws or modify
13 existing laws to address the specific issues set forth below,
14 and whether any existing statutes will require modification or
15 repeal.

16 (b) The positive and negative impacts of the current
17 systems of retainage being utilized throughout the state as
18 applied to public sector and private sector construction
19 contracts, and as between owners and contractors, between
20 contractors and subcontractors, and between subcontractors and
21 subcontractor.

22 (c) Whether the traditional 10 percent retainage
23 practice in construction is equitable and whether there are
24 viable alternatives to this practice.

25 (d) What may be an appropriate percentage of retainage
26 to be held on all construction projects.

27 (e) What the purposes of retainage are for
28 construction projects.

29 (f) Whether it is appropriate to hold all retainage
30 until the end of a construction project or whether periodic
31 release of retainage or release of retainage for specific

1 divisions of work on a construction project is appropriate and
2 reasonably manageable.

3 (g) What protections are currently in place for owners
4 to insure that construction projects are progressing in a
5 satisfactory manner, including, but not limited to, project
6 management techniques, periodic inspections, services of
7 project architects and engineers, and whether those
8 protections are being adequately and properly utilized.

9 (h) What protections are currently in place or could
10 be adopted for owners, contractors, and subcontractors through
11 the utilization of construction payment and performance bonds.

12 (i) Whether the documentation required for
13 construction projects contributes to delays in progress
14 payments, final payments, and release of retainage; whether
15 such requirements could be simplified or standardized to
16 streamline the process; and whether it is appropriate for the
17 Legislature to address this issue.

18 (j) Whether the Legislature should limit the
19 percentage of retainage that can be held on public and private
20 construction projects.

21 (k) Whether the Legislature should provide for
22 periodic release of retainage on public and private
23 construction projects.

24 (l) Whether the Legislature should establish
25 requirements and time limits for owners and contractors to
26 release final payment and retainage on all construction
27 projects.

28 (3) OPPAGA shall present a report of its findings and
29 recommendations to the President of the Senate, the Speaker of
30 the House of Representatives, minority leaders of the Senate
31 and House of Representatives, and chairs of the House Business

1 Regulation & Consumer Affairs Committee and the Senate
2 Regulated Industries Committee by January 1, 2001.

3 Section 9. Sections amending sections 218.72, 218.73,
4 218.735, 218.74, 218.75, 218.76, and 255.05, F.S., shall take
5 effect July 1, 2000, and shall apply to construction contracts
6 entered into on or after July 1, 2000.

7 Section 10. Subsection (1) of section 399.061, Florida
8 Statutes, is amended to read:

9 399.061 Inspections; correction of deficiencies.--

10 (1)(a) All ~~For those~~ elevators subject to this chapter
11 must be inspected pursuant to s. 399.13, by a third-party
12 inspector certified as a Qualified Elevator Inspector, or
13 maintained pursuant to a service maintenance contract
14 continuously in force. A statement verifying the existence,
15 performance, and cancellation of each service maintenance
16 contract must be filed annually with the division as
17 prescribed by rule. All elevators for which a service
18 maintenance contract is not continuously in force, the
19 division shall inspect such elevators at least once between
20 July 1 of any year and June 30 of the next year, the state's
21 fiscal year.

22 ~~(b) When a service maintenance contract is~~
23 ~~continuously maintained with an elevator company, the division~~
24 ~~shall verify with the elevator company before the end of each~~
25 ~~fiscal year that the contract is in force and is being~~
26 ~~implemented. An elevator inspected by a Qualified Elevator~~
27 Inspector shall be inspected annually, and all elevators
28 covered by such a service maintenance contract shall be
29 inspected by a certificate of competency holder state elevator
30 inspector at least once every 2 fiscal years; however, if the
31 elevator is not an escalator or a dumbwaiter and the elevator

1 serves only two adjacent floors and is covered by a service
2 maintenance contract, no inspection shall be required so long
3 as the service contract remains in effect.

4 ~~(b)(c)~~ The division may inspect an elevator whenever
5 necessary to ensure its safe operation.

6 Section 11. Effective January 1, 2001, subsection (1)
7 of section 399.13, Florida Statutes, is amended to read:

8 399.13 Delegation of authority to municipalities or
9 counties.--

10 (1) The division may enter into contracts with
11 municipalities or counties under which such municipalities or
12 counties will issue construction permits, temporary operation
13 permits, and certificates of operation; will provide
14 inspection of elevators; and will enforce the applicable
15 provisions of the Florida Building Elevator Safety Code, as
16 required by this chapter. Each such agreement shall include a
17 provision that the municipality or county shall maintain for
18 inspection by the division copies of all applications for
19 permits issued, a copy of each inspection report issued, and
20 proper records showing the number of certificates of operation
21 issued; shall include a provision that each required
22 inspection be conducted by the holder of a certificate of
23 competency issued by the division; and may include such other
24 provisions as the division deems necessary.

25 Section 12. Subsections (2) and (6) of section
26 468.603, Florida Statutes, are amended, and subsection (8) is
27 added to said section, to read:

28 468.603 Definitions.--As used in this part:

29 (2) "Building code inspector" ~~or "inspector"~~ means any
30 of those employees of local governments or state agencies with
31 building construction regulation responsibilities who

1 themselves conduct inspections of building construction,
2 erection, repair, addition, or alteration projects that
3 require permitting indicating compliance with building,
4 plumbing, mechanical, electrical, gas, fire prevention,
5 energy, accessibility, and other construction codes as
6 required by state law or municipal or county ordinance.

7 (6) "Categories of building code inspectors" include
8 the following:

9 (a) "Building inspector" means a person who is
10 qualified to inspect and determine that buildings and
11 structures are constructed in accordance with the provisions
12 of the governing building codes and state accessibility laws.

13 (b) "Coastal construction inspector" means a person
14 who is qualified to inspect and determine that buildings and
15 structures are constructed to resist near-hurricane and
16 hurricane velocity winds in accordance with the provisions of
17 the governing building code.

18 (c) "Commercial electrical inspector" means a person
19 who is qualified to inspect and determine the electrical
20 safety of commercial buildings and structures by inspecting
21 for compliance with the provisions of the National Electrical
22 Code.

23 (d) "Residential electrical inspector" means a person
24 who is qualified to inspect and determine the electrical
25 safety of one and two family dwellings and accessory
26 structures by inspecting for compliance with the applicable
27 provisions of the governing electrical code.

28 (e) "Mechanical inspector" means a person who is
29 qualified to inspect and determine that the mechanical
30 installations and systems for buildings and structures are in
31

1 compliance with the provisions of the governing mechanical
2 code.

3 (f) "Plumbing inspector" means a person who is
4 qualified to inspect and determine that the plumbing
5 installations and systems for buildings and structures are in
6 compliance with the provisions of the governing plumbing code.

7 (g) "One and two family dwelling inspector" means a
8 person who is qualified to inspect and determine that one and
9 two family dwellings and accessory structures are constructed
10 in accordance with the provisions of the governing building,
11 plumbing, mechanical, accessibility, and electrical codes.

12 (h) "Electrical inspector" means a person who is
13 qualified to inspect and determine the electrical safety of
14 commercial and residential buildings and accessory structures
15 by inspecting for compliance with the provisions of the
16 National Electrical Code.

17 (8) "Building code enforcement official" or
18 "enforcement official" means a licensed building code
19 administrator, building code inspector, or plans examiner.

20 Section 13. Subsections (2) and (6) of section
21 468.603, Florida Statutes, are amended to read:

22 468.603 Definitions.--As used in this part:

23 (2) "Building code inspector" ~~or "inspector"~~ means any
24 of those employees of local governments or state agencies with
25 building construction regulation responsibilities who
26 themselves conduct inspections of building construction,
27 erection, repair, addition, or alteration projects that
28 require permitting indicating compliance with building,
29 plumbing, mechanical, electrical, gas, fire prevention,
30 energy, accessibility, and other construction codes as
31 required by state law or municipal or county ordinance.

1 (6) "Categories of building code inspectors" include
2 the following:

3 (a) "Building inspector" means a person who is
4 qualified to inspect and determine that buildings and
5 structures are constructed in accordance with the provisions
6 of the governing building codes and state accessibility laws.

7 (b) "Coastal construction inspector" means a person
8 who is qualified to inspect and determine that buildings and
9 structures are constructed to resist near-hurricane and
10 hurricane velocity winds in accordance with the provisions of
11 the governing building code.

12 (c) "Commercial electrical inspector" means a person
13 who is qualified to inspect and determine the electrical
14 safety of commercial buildings and structures by inspecting
15 for compliance with the provisions of the National Electrical
16 Code.

17 (d) "Residential electrical inspector" means a person
18 who is qualified to inspect and determine the electrical
19 safety of one and two family dwellings and accessory
20 structures by inspecting for compliance with the applicable
21 provisions of the governing electrical code.

22 (e) "Mechanical inspector" means a person who is
23 qualified to inspect and determine that the mechanical
24 installations and systems for buildings and structures are in
25 compliance with the provisions of the governing mechanical
26 code.

27 (f) "Plumbing inspector" means a person who is
28 qualified to inspect and determine that the plumbing
29 installations and systems for buildings and structures are in
30 compliance with the provisions of the governing plumbing code.

31

1 (g) "One and two family dwelling inspector" means a
2 person who is qualified to inspect and determine that one and
3 two family dwellings and accessory structures are constructed
4 in accordance with the provisions of the governing building,
5 plumbing, mechanical, accessibility, and electrical codes.

6 (h) "Electrical inspector" means a person who is
7 qualified to inspect and determine the electrical safety of
8 commercial and residential buildings and accessory structures
9 by inspecting for compliance with the provisions of the
10 National Electrical Code.

11 Section 14. Section 468.604, Florida Statutes, is
12 amended to read:

13 468.604 Responsibilities of building code
14 administrators, plans examiners, and building code
15 inspectors.--

16 (1) It is the responsibility of the building code
17 administrator or building official to administrate, supervise,
18 direct, enforce, or perform the permitting and inspection of
19 construction, alteration, repair, remodeling, or demolition of
20 structures and the installation of building systems within the
21 boundaries of their governmental jurisdiction, when permitting
22 is required, to ensure compliance with building, plumbing,
23 mechanical, electrical, gas fuel, energy conservation,
24 accessibility, and other construction codes which are required
25 or adopted by municipal code, county ordinance, or state law.
26 The building code administrator or building official shall
27 faithfully perform these responsibilities without interference
28 from any person. These responsibilities include:

29 (a) The review of construction plans to ensure
30 compliance with all applicable codes. The construction plans
31 must be reviewed before the issuance of any building, system

1 installation, or other construction permit. The review of
2 construction plans must be done by the building code
3 administrator or building official or by a person having the
4 appropriate plans examiner license issued under this chapter.

5 (b) The inspection of each phase of construction where
6 a building or other construction permit has been issued. The
7 building code administrator or building official, or a person
8 having the appropriate building code inspector license issued
9 under this chapter, shall inspect the construction or
10 installation to ensure that the work is performed in
11 accordance with applicable codes.

12 (2) It is the responsibility of the building code
13 inspector to conduct inspections of construction, alteration,
14 repair, remodeling, or demolition of structures and the
15 installation of building systems, when permitting is required,
16 to ensure compliance with building, plumbing, mechanical,
17 electrical, gas fuel, energy conservation, accessibility, and
18 other construction codes required by municipal code, county
19 ordinance, or state law. Each building code inspector must be
20 licensed in the appropriate category as defined in s. 468.603.
21 The building code inspector's responsibilities must be
22 performed under the direction of the building code
23 administrator or building official without interference from
24 any unlicensed person.

25 (3) It is the responsibility of the plans examiner to
26 conduct review of construction plans submitted in the permit
27 application to assure compliance with all applicable codes
28 required by municipal code, county ordinance, or state law.
29 The review of construction plans must be done by the building
30 code administrator or building official or by a person
31 licensed in the appropriate plans examiner category as defined

1 in s. 468.603. The plans examiner's responsibilities must be
2 performed under the supervision and authority of the building
3 code administrator or building official without interference
4 from any unlicensed person.

5 Section 15. Paragraph (c) of subsection (2) of section
6 468.605, Florida Statutes, is amended to read:

7 468.605 Florida Building Code Administrators and
8 Inspectors Board.--

9 (2) The board shall consist of nine members, as
10 follows:

11 (c) Two members serving as building code inspectors.
12

13 None of the board members described in paragraph (a) or
14 paragraph (f) may be an employee of a municipal, county, or
15 state governmental agency.

16 Section 16. Section 468.607, Florida Statutes, is
17 amended to read:

18 468.607 Certification of building code administration
19 and inspection personnel.--The board shall issue a certificate
20 to any individual whom the board determines to be qualified,
21 within such class and level as provided in this part and with
22 such limitations as the board may place upon it. No person
23 may be employed by a state agency or local governmental
24 authority to perform the duties of a building code
25 administrator, plans examiner, or building code inspector
26 after October 1, 1993, without possessing the proper valid
27 certificate issued in accordance with the provisions of this
28 part.

29 Section 17. Section 468.609, Florida Statutes, is
30 amended to read:
31

1 468.609 Administration of this part; standards for
2 certification; additional categories of certification.--

3 (1) Except as provided in this part, any person who
4 desires to be certified shall apply to the board, in writing
5 upon forms approved and furnished by the board, to take the
6 certification examination.

7 (2) A person shall be entitled to take the examination
8 for certification as a building code ~~an~~ inspector or plans
9 examiner pursuant to this part if the person:

10 (a) Is at least 18 years of age;

11 (b) Is of good moral character; and

12 (c) Meets eligibility requirements according to one of
13 the following criteria:

14 1. Demonstrates 5 years' combined experience in the
15 field of construction or a related field, building code
16 inspection, or plans review corresponding to the certification
17 category sought;

18 2. Demonstrates a combination of postsecondary
19 education in the field of construction or a related field and
20 experience which totals 4 years, with at least 1 year of such
21 total being experience in construction, building code
22 inspection, or plans review;

23 3. Demonstrates a combination of technical education
24 in the field of construction or a related field and experience
25 which totals 4 years, with at least 1 year of such total being
26 experience in construction, building code inspection, or plans
27 review; or

28 4. Currently holds a standard certificate as issued by
29 the board and satisfactorily completes a building code ~~an~~
30 inspector or plans examiner training program of not less than
31 200 hours in the certification category sought. The board

1 shall establish by rule criteria for the development and
2 implementation of the training programs.

3 (d) Demonstrates successful completion of the core
4 curriculum and specialized or advanced module coursework
5 approved by the Florida Building Commission, as part of the
6 Building Code Training Program established pursuant to s.
7 553.841, appropriate to the licensing category sought or,
8 pursuant to authorization by the certifying authority,
9 provides proof of completion of such curriculum or coursework
10 within 6 months after such certification.

11 (3) A person shall be entitled to take the examination
12 for certification as a building code administrator pursuant to
13 this part if the person:

14 (a) Is at least 18 years of age;

15 (b) Is of good moral character; and

16 (c) Meets eligibility requirements according to one of
17 the following criteria:

18 1. Demonstrates 10 years' combined experience as an
19 architect, engineer, plans examiner, building code inspector,
20 registered or certified contractor, or construction
21 superintendent, with at least 5 years of such experience in
22 supervisory positions; or

23 2. Demonstrates a combination of postsecondary
24 education in the field of construction or related field, no
25 more than 5 years of which may be applied, and experience as
26 an architect, engineer, plans examiner, building code
27 inspector, registered or certified contractor, or construction
28 superintendent which totals 10 years, with at least 5 years of
29 such total being experience in supervisory positions.

30 (d) Demonstrates successful completion of the core
31 curriculum and specialized or advanced module coursework

1 approved by the Florida Building Commission, as part of the
 2 Building Code Training Program established pursuant to s.
 3 553.841, appropriate to the licensing category sought or,
 4 pursuant to authorization by the certifying authority,
 5 provides proof of completion of such curriculum or coursework
 6 within 6 months after such certification.

7 (4) No person may engage in the duties of a building
 8 code administrator, plans examiner, or building code inspector
 9 pursuant to this part after October 1, 1993, unless such
 10 person possesses one of the following types of certificates,
 11 currently valid, issued by the board attesting to the person's
 12 qualifications to hold such position:

13 (a) A standard certificate.

14 (b) A limited certificate.

15 (c) A provisional certificate.

16 (5)(a) To obtain a standard certificate, an individual
 17 must pass an examination approved by the board which
 18 demonstrates that the applicant has fundamental knowledge of
 19 the state laws and codes relating to the construction of
 20 buildings for which the applicant has building code
 21 administration, plans examination ~~examining~~, or building code
 22 inspection responsibilities. It is the intent of the
 23 Legislature that the examination approved for certification
 24 pursuant to this part be substantially equivalent to the
 25 examinations administered by the Southern Building Code
 26 Congress International, ~~the Building Officials Association of~~
 27 ~~Florida, the South Florida Building Code (Dade and Broward),~~
 28 and the Council of American Building Officials.

29 (b) A standard certificate shall be issued to each
 30 applicant who successfully completes the examination, which
 31 certificate authorizes the individual named thereon to

1 practice throughout the state as a building code
2 administrator, plans examiner, or building code inspector
3 within such class and level as is specified by the board.

4 (c) The board may accept proof that the applicant has
5 passed an examination which is substantially equivalent to the
6 board-approved examination set forth in this section.

7 (6)(a) A building code administrator, plans examiner,
8 or building code inspector holding office on July 1, 1993,
9 shall not be required to possess a standard certificate as a
10 condition of tenure or continued employment, but shall be
11 required to obtain a limited certificate as described in this
12 subsection.

13 (b) By October 1, 1993, individuals who were employed
14 on July 1, 1993, as building code administrators, plans
15 examiners, or building code inspectors, who are not eligible
16 for a standard certificate, but who wish to continue in such
17 employment, shall submit to the board the appropriate
18 application and certification fees and shall receive a limited
19 certificate qualifying them to engage in building code
20 administration, plans examination, or building code inspection
21 in the class, at the performance level, and within the
22 governmental jurisdiction in which such person is employed.

23 (c) The limited certificate shall be valid only as an
24 authorization for the building code administrator, plans
25 examiner, or building code inspector to continue in the
26 position held, and to continue performing all functions
27 assigned to that position, on July 1, 1993.

28 (d) A building code administrator, plans examiner, or
29 building code inspector holding a limited certificate can be
30 promoted to a position requiring a higher level certificate
31

1 only upon issuance of a standard certificate or provisional
2 certificate appropriate for such new position.

3 (7)(a) The board may provide for the issuance of
4 provisional certificates valid for such period, not less than
5 3 years ~~1 year~~ nor more than 5 ~~3~~ years, as specified by board
6 rule, to any newly employed or promoted building code
7 inspector or plans examiner who meets the eligibility
8 requirements described in subsection (2) and any newly
9 employed or promoted building code administrator who meets the
10 eligibility requirements described in subsection (3)~~building~~
11 ~~code administrator, plans examiner, or inspector.~~

12 (b) No building code administrator, plans examiner, or
13 building code inspector may have a provisional certificate
14 extended beyond the specified period by renewal or otherwise.

15 (c) The board may provide for appropriate levels of
16 provisional certificates and may issue these certificates with
17 such special conditions or requirements relating to the place
18 of employment of the person holding the certificate, the
19 supervision of such person on a consulting or advisory basis,
20 or other matters as the board may deem necessary to protect
21 the public safety and health.

22 (d) A newly employed or hired person may perform the
23 duties of a plans examiner or building code inspector for 90
24 days if a provisional certificate application has been
25 submitted, provided such person is under the direct
26 supervision of a certified building code administrator who
27 holds a standard certification and who has found such person
28 qualified for a provisional certificate. However, direct
29 supervision and the determination of qualifications under this
30 paragraph may be provided by a building code administrator who
31 holds a limited or provisional certificate in any county with

1 a population of less than 75,000 and in any municipality
2 located within such a county.

3 ~~(8)(a) Any individual who holds a valid certificate~~
4 ~~under the provisions of s. 553.795, or who has successfully~~
5 ~~completed all requirements for certification pursuant to such~~
6 ~~section, shall be deemed to have satisfied the requirements~~
7 ~~for receiving a standard certificate prescribed by this part.~~

8 ~~(b) Any individual who holds a valid certificate~~
9 ~~issued by the Southern Building Code Congress International,~~
10 ~~the Building Officials Association of Florida, the South~~
11 ~~Florida Building Code (Dade and Broward), or the Council of~~
12 ~~American Building Officials certification programs, or who has~~
13 ~~been approved for certification under one of those programs~~
14 ~~not later than October 1, 1995, shall be deemed to have~~
15 ~~satisfied the requirements for receiving a standard~~
16 ~~certificate in the corresponding category prescribed by this~~
17 ~~part. Employees of counties with a population of less than~~
18 ~~50,000, or employees of municipalities with a population of~~
19 ~~less than 3,500, shall be deemed to have satisfied the~~
20 ~~requirements for standard certification where such employee is~~
21 ~~approved for certification under one of the programs set forth~~
22 ~~in this paragraph not later than October 1, 1998.~~

23 ~~(8)(9)~~ Any individual applying to the board may be
24 issued a certificate valid for multiple building code
25 inspection classes, as deemed appropriate by the board.

26 ~~(9)(10)~~ Certification and training classes may be
27 developed in coordination with degree career education
28 centers, community colleges, the State University System, or
29 other entities offering certification and training classes.

30 ~~(10)(11)~~ The board may by rule create categories of
31 certification in addition to those defined in s. 468.603(6)

1 and (7). Such certification categories shall not be mandatory
2 and shall not act to diminish the scope of any certificate
3 created by statute.

4 Section 18. Section 468.617, Florida Statutes, is
5 amended to read:

6 468.617 Joint building code inspection department;
7 other arrangements.--

8 (1) Nothing in this part shall prohibit any local
9 jurisdiction from entering into and carrying out contracts
10 with any other local jurisdiction under which the parties
11 agree to create and support a joint building code inspection
12 department for conforming to the provisions of this part. In
13 lieu of a joint building code inspection department, any local
14 jurisdiction may designate a building code ~~an~~ inspector from
15 another local jurisdiction to serve as a building code ~~an~~
16 inspector for the purposes of this part.

17 (2) Nothing in this part shall prohibit local
18 governments from contracting with persons certified pursuant
19 to this part to perform building code inspections or plan
20 reviews. An individual or entity may not inspect or examine
21 plans on projects in which the individual or entity designed
22 or permitted the projects.

23 (3) Nothing in this part shall prohibit any county or
24 municipal government from entering into any contract with any
25 person or entity for the provision of building code inspection
26 services regulated under this part, and notwithstanding any
27 other statutory provision, such county or municipal
28 governments may enter into contracts.

29 Section 19. Section 468.619, Florida Statutes, is
30 created to read:

31

1 468.619 Building code enforcement officials' bill of
2 rights.--

3 (1) It is the finding of the Legislature that building
4 code enforcement officials are employed by local jurisdictions
5 to exercise police powers of the state in the course of their
6 duties and are in that way similar to law enforcement
7 personnel, correctional officers, and firefighters. It is the
8 further finding of the Legislature that building code
9 enforcement officials are thereby sufficiently distinguishable
10 from other professionals regulated by the department so that
11 their circumstances merit additional specific protections in
12 the course of disciplinary investigations and proceedings
13 against their licenses.

14 (2) All enforcement officials licensed under this part
15 shall have the rights and privileges specified in this
16 section. Such rights are not exclusive to other rights, and an
17 enforcement official does not forfeit any rights otherwise
18 held under federal, state, or local law. In any instance of a
19 conflict between a provision of this section and a provision
20 of chapter 455, the provision of this section shall supersede
21 the provision of chapter 455.

22 (3) Whenever an enforcement official is subjected to
23 an investigative interview for possible disciplinary action by
24 the department, such interview shall be conducted pursuant to
25 the requirements of this subsection.

26 (a) The interview shall take place at a reasonable
27 hour. If the interview is taken in person, it shall take place
28 not more than 30 miles from where the licensee works, or at
29 any other mutually agreeable location or time.

30 (b) An enforcement official may not be subjected to an
31 interview without first receiving written notice of sufficient

1 details of the complaint in order to be reasonably apprised of
2 the nature of the investigation and of the substance of the
3 allegations made. The enforcement official shall be informed
4 prior to the interview whether the complaint originated from
5 the department or from a consumer.

6 (c) At his or her request, an enforcement official
7 under investigation shall have the right to be represented by
8 counsel or by any other representative of his or her choice,
9 who shall be present at such time as the enforcement official
10 wishes during the interview.

11 (d) During the interview, the enforcement official may
12 not be subjected to offensive language. No promise may be made
13 or reward offered to the enforcement official as an inducement
14 to answer any question.

15 (e) If requested by the enforcement official, the
16 interview of an enforcement official, including notation of
17 all recess periods, must be recorded on audio tape, or
18 otherwise preserved in such a manner as to allow a transcript
19 to be prepared, and there shall be no unrecorded questions or
20 statements. Upon the request of the enforcement official, a
21 copy of any such recording of the interview must be made
22 available to the enforcement official no later than 72 hours
23 following the interview, excluding holidays and weekends. The
24 expense of the recording and transcript shall be borne by the
25 enforcement official.

26 (f) If the testimony is transcribed, the transcript
27 must be furnished to the enforcement official for examination,
28 and shall be read to or by the enforcement official, unless
29 waived by all parties involved. Any changes in form or
30 substance that the enforcement official wants to make shall be
31 listed in writing, with a statement of the reasons for making

1 the changes. The changes shall be attached to the transcript.
2 Any transcript of an interview with an enforcement official
3 which is to be used in any proceeding against the enforcement
4 official shall be sworn or affirmed to and acknowledged by the
5 enforcement official.

6 (4) The investigation of a complaint against an
7 enforcement official is subject to the time restrictions set
8 forth in this subsection, and failure to comply with any time
9 restriction set forth in this subsection shall result in
10 dismissal of the complaint against the enforcement official.

11 An investigation of a complaint against an enforcement
12 official that was dismissed for failure to comply with a time
13 restriction set forth in this subsection may not be reopened.
14 However, in any instance of an additional complaint being
15 initiated, information or investigation related to the
16 dismissed complaint may be used.

17 (a) The department must inform the enforcement
18 official of any legally sufficient complaint received,
19 including the substance of the allegation, within 10 days
20 after receipt of the complaint by the department.

21 (b) The enforcement official shall be given thirty
22 (30) days to respond to any legally sufficient complaint.

23 (c) No longer than 180 days from the date of the
24 receipt of the complaint, the department shall submit the
25 investigation, whether complete or not, to the probable cause
26 panel for review. In the event the investigation is not
27 complete, the probable cause panel shall review and instruct
28 the department to complete the investigation within a time
29 certain and, in no event, greater than ninety (90) days or
30 dismiss the complaint with prejudice.

31

1 (5) The enforcement official shall be considered an
2 agent of the governmental entity employing him or her and as
3 such shall be defended by that entity in any action brought by
4 the department or the board, provided the enforcement official
5 is working within the scope of his or her employment.

6 (6) An enforcement official shall not be subject to
7 disciplinary action in regard to his or her certification for
8 exercising his or her rights under this section.

9 (7) If any action taken against the enforcement
10 official by the department or the board is found to be without
11 merit by a court of competent jurisdiction, or if judgment in
12 such an action is awarded to the enforcement official, the
13 department or the board, or the assignee of the department or
14 board, shall reimburse the enforcement official or his or her
15 employer, as appropriate, for reasonable legal costs and
16 reasonable attorney's fees incurred. The amount awarded shall
17 not exceed the limit provided in s. 120.595.

18 (8) An enforcement official may bring civil suit
19 against any person, group of persons, or organization or
20 corporation, or the head of such organization or corporation,
21 for damages, either pecuniary or otherwise, suffered pursuant
22 to the performance of the enforcement official's duties or for
23 abridgement of the enforcement official's civil rights arising
24 out of the enforcement official's performance of official
25 duties.

26 (9) Notwithstanding any other provision in law, while
27 under investigation the enforcement official shall not be
28 denied any and all the rights and privileges of a licensee in
29 good standing.

30 Section 20. Subsection (3) of section 468.621, Florida
31 Statutes, is amended to read:

1 468.621 Disciplinary proceedings.--

2 (3) Where a certificate is suspended, placed on
3 probation, or has conditions imposed, the board shall
4 reinstate the certificate of a disciplined building code
5 administrator, plans examiner, or building code inspector upon
6 proof the disciplined individual has complied with all terms
7 and conditions set forth in the final order.

8 Section 21. Subsections (2), (3), and (4) of section
9 468.627, Florida Statutes, are amended to read:

10 468.627 Application; examination; renewal; fees.--

11 (2) The initial application fee may not exceed \$25 for
12 building code administrators, plans examiners, or building
13 code inspectors.

14 (3) The initial examination fee may not exceed \$150
15 for building code administrators, plans examiners, or building
16 code inspectors.

17 (4) Employees of local government agencies having
18 responsibility for building code inspection, building
19 construction regulation, and enforcement of building,
20 plumbing, mechanical, electrical, gas, fire prevention,
21 energy, accessibility, and other construction codes shall pay
22 no application fees or examination fees.

23 Section 22. Section 468.631, Florida Statutes, is
24 amended to read:

25 468.631 Building Code Administrators and Inspectors
26 Fund.--The provisions of this part shall be funded through a
27 surcharge, to be assessed pursuant to s. 125.56(4) or s.
28 166.201 at the rate of one-half cent per square foot of
29 under-roof floor space permitted, including new construction,
30 renovations, alterations, and additions. The unit of
31 government responsible for collecting permit fees pursuant to

1 s. 125.56(4) or s. 166.201 shall collect such surcharge and
 2 shall remit the funds to the department on a quarterly
 3 calendar basis beginning not later than December 31, 1993, for
 4 the preceding quarter, and continuing each third month
 5 thereafter; and such unit of government may retain an amount
 6 up to 10 percent of the surcharge collected to fund projects
 7 and activities intended to improve the quality of building
 8 code enforcement. There is created within the Professional
 9 Regulation Trust Fund a separate account to be known as the
 10 Building Code Administrators and Inspectors Fund, which shall
 11 deposit and disburse funds as necessary for the implementation
 12 of this part. The department shall annually establish the
 13 amount needed to fund the certification and regulation of
 14 building code administrators, plans examiners, and building
 15 code inspectors. Any funds collected in excess of the amount
 16 needed to adequately fund the certification and regulation of
 17 building code administrators, plans examiners, and building
 18 code inspectors shall be deposited into the Construction
 19 Industries Recovery Fund established by s. 489.140. If the
 20 Construction Industries Recovery Fund is fully funded as
 21 provided by s. 489.140, any remaining funds shall be
 22 distributed to the Construction Industry Licensing Board for
 23 use in the regulation of certified and registered contractors.

24 Section 23. Subsection (1) of section 468.633, Florida
 25 Statutes, is amended to read:

26 468.633 Authority of local government.--

27 (1) Nothing in this part may be construed to restrict
 28 the authority of local governments to require as a condition
 29 of employment that building code administrators, plans
 30 examiners, and building code inspectors possess qualifications
 31

1 beyond the requirements for certification contained in this
2 part.

3 Section 24. Paragraph (a) of subsection (1) of section
4 112.3145, Florida Statutes, is amended to read:

5 112.3145 Disclosure of financial interests and clients
6 represented before agencies.--

7 (1) For purposes of this section, unless the context
8 otherwise requires, the term:

9 (a) "Local officer" means:

10 1. Every person who is elected to office in any
11 political subdivision of the state, and every person who is
12 appointed to fill a vacancy for an unexpired term in such an
13 elective office.

14 2. Any appointed member of a board; commission;
15 authority, including any expressway authority or
16 transportation authority established by general law; community
17 college district board of trustees; or council of any
18 political subdivision of the state, excluding any member of an
19 advisory body. A governmental body with land-planning, zoning,
20 or natural resources responsibilities shall not be considered
21 an advisory body.

22 3. Any person holding one or more of the following
23 positions: mayor; county or city manager; chief administrative
24 employee of a county, municipality, or other political
25 subdivision; county or municipal attorney; chief county or
26 municipal building code inspector; county or municipal water
27 resources coordinator; county or municipal pollution control
28 director; county or municipal environmental control director;
29 county or municipal administrator, with power to grant or deny
30 a land development permit; chief of police; fire chief;
31 municipal clerk; district school superintendent; community

1 college president; district medical examiner; or purchasing
2 agent having the authority to make any purchase exceeding the
3 threshold amount provided for in s. 287.017 for CATEGORY ONE,
4 on behalf of any political subdivision of the state or any
5 entity thereof.

6 Section 25. Subsection (3) of section 125.56, Florida
7 Statutes, is amended to read:

8 125.56 Adoption or amendment of building code;
9 inspection fees; inspectors; etc.--

10 (3) The board of county commissioners of each of the
11 several counties may employ a building code inspector and such
12 other personnel as it deems necessary to carry out the
13 provisions of this act and may pay reasonable salaries for
14 such services.

15 Section 26. Paragraph (g) of subsection (5) of section
16 212.08, Florida Statutes, is amended to read:

17 212.08 Sales, rental, use, consumption, distribution,
18 and storage tax; specified exemptions.--The sale at retail,
19 the rental, the use, the consumption, the distribution, and
20 the storage to be used or consumed in this state of the
21 following are hereby specifically exempt from the tax imposed
22 by this chapter.

23 (5) EXEMPTIONS; ACCOUNT OF USE.--

24 (g) Building materials used in the rehabilitation of
25 real property located in an enterprise zone.--

26 1. Beginning July 1, 1995, building materials used in
27 the rehabilitation of real property located in an enterprise
28 zone shall be exempt from the tax imposed by this chapter upon
29 an affirmative showing to the satisfaction of the department
30 that the items have been used for the rehabilitation of real
31 property located in an enterprise zone. Except as provided in

1 subparagraph 2., this exemption inures to the owner, lessee,
2 or lessor of the rehabilitated real property located in an
3 enterprise zone only through a refund of previously paid
4 taxes. To receive a refund pursuant to this paragraph, the
5 owner, lessee, or lessor of the rehabilitated real property
6 located in an enterprise zone must file an application under
7 oath with the governing body or enterprise zone development
8 agency having jurisdiction over the enterprise zone where the
9 business is located, as applicable, which includes:

10 a. The name and address of the person claiming the
11 refund.

12 b. An address and assessment roll parcel number of the
13 rehabilitated real property in an enterprise zone for which a
14 refund of previously paid taxes is being sought.

15 c. A description of the improvements made to
16 accomplish the rehabilitation of the real property.

17 d. A copy of the building permit issued for the
18 rehabilitation of the real property.

19 e. A sworn statement, under the penalty of perjury,
20 from the general contractor licensed in this state with whom
21 the applicant contracted to make the improvements necessary to
22 accomplish the rehabilitation of the real property, which
23 statement lists the building materials used in the
24 rehabilitation of the real property, the actual cost of the
25 building materials, and the amount of sales tax paid in this
26 state on the building materials. In the event that a general
27 contractor has not been used, the applicant shall provide this
28 information in a sworn statement, under the penalty of
29 perjury. Copies of the invoices which evidence the purchase of
30 the building materials used in such rehabilitation and the
31 payment of sales tax on the building materials shall be

1 attached to the sworn statement provided by the general
2 contractor or by the applicant. Unless the actual cost of
3 building materials used in the rehabilitation of real property
4 and the payment of sales taxes due thereon is documented by a
5 general contractor or by the applicant in this manner, the
6 cost of such building materials shall be an amount equal to 40
7 percent of the increase in assessed value for ad valorem tax
8 purposes.

9 f. The identifying number assigned pursuant to s.
10 290.0065 to the enterprise zone in which the rehabilitated
11 real property is located.

12 g. A certification by the local building code
13 inspector that the improvements necessary to accomplish the
14 rehabilitation of the real property are substantially
15 completed.

16 h. Whether the business is a small business as defined
17 by s. 288.703(1).

18 i. If applicable, the name and address of each
19 permanent employee of the business, including, for each
20 employee who is a resident of an enterprise zone, the
21 identifying number assigned pursuant to s. 290.0065 to the
22 enterprise zone in which the employee resides.

23 2. This exemption inures to a city, county, or other
24 governmental agency through a refund of previously paid taxes
25 if the building materials used in the rehabilitation of real
26 property located in an enterprise zone are paid for from the
27 funds of a community development block grant or similar grant
28 or loan program. To receive a refund pursuant to this
29 paragraph, a city, county, or other governmental agency must
30 file an application which includes the same information
31 required to be provided in subparagraph 1. by an owner,

1 lessee, or lessor of rehabilitated real property. In addition,
 2 the application must include a sworn statement signed by the
 3 chief executive officer of the city, county, or other
 4 governmental agency seeking a refund which states that the
 5 building materials for which a refund is sought were paid for
 6 from the funds of a community development block grant or
 7 similar grant or loan program.

8 3. Within 10 working days after receipt of an
 9 application, the governing body or enterprise zone development
 10 agency shall review the application to determine if it
 11 contains all the information required pursuant to subparagraph
 12 1. or subparagraph 2. and meets the criteria set out in this
 13 paragraph. The governing body or agency shall certify all
 14 applications that contain the information required pursuant to
 15 subparagraph 1. or subparagraph 2. and meet the criteria set
 16 out in this paragraph as eligible to receive a refund. If
 17 applicable, the governing body or agency shall also certify if
 18 20 percent of the employees of the business are residents of
 19 an enterprise zone, excluding temporary and part-time
 20 employees. The certification shall be in writing, and a copy
 21 of the certification shall be transmitted to the executive
 22 director of the Department of Revenue. The applicant shall be
 23 responsible for forwarding a certified application to the
 24 department within the time specified in subparagraph 4.

25 4. An application for a refund pursuant to this
 26 paragraph must be submitted to the department within 6 months
 27 after the rehabilitation of the property is deemed to be
 28 substantially completed by the local building code inspector.

29 5. The provisions of s. 212.095 do not apply to any
 30 refund application made pursuant to this paragraph. No more
 31 than one exemption through a refund of previously paid taxes

1 for the rehabilitation of real property shall be permitted for
2 any one parcel of real property. No refund shall be granted
3 pursuant to this paragraph unless the amount to be refunded
4 exceeds \$500. No refund granted pursuant to this paragraph
5 shall exceed the lesser of 97 percent of the Florida sales or
6 use tax paid on the cost of the building materials used in the
7 rehabilitation of the real property as determined pursuant to
8 sub-subparagraph 1.e. or \$5,000, or, if no less than 20
9 percent of the employees of the business are residents of an
10 enterprise zone, excluding temporary and part-time employees,
11 the amount of refund granted pursuant to this paragraph shall
12 not exceed the lesser of 97 percent of the sales tax paid on
13 the cost of such building materials or \$10,000. A refund
14 approved pursuant to this paragraph shall be made within 30
15 days of formal approval by the department of the application
16 for the refund.

17 6. The department shall adopt rules governing the
18 manner and form of refund applications and may establish
19 guidelines as to the requisites for an affirmative showing of
20 qualification for exemption under this paragraph.

21 7. The department shall deduct an amount equal to 10
22 percent of each refund granted under the provisions of this
23 paragraph from the amount transferred into the Local
24 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
25 s. 212.20 for the county area in which the rehabilitated real
26 property is located and shall transfer that amount to the
27 General Revenue Fund.

28 8. For the purposes of the exemption provided in this
29 paragraph:
30
31

1 a. "Building materials" means tangible personal
2 property which becomes a component part of improvements to
3 real property.

4 b. "Real property" has the same meaning as provided in
5 s. 192.001(12).

6 c. "Rehabilitation of real property" means the
7 reconstruction, renovation, restoration, rehabilitation,
8 construction, or expansion of improvements to real property.

9 d. "Substantially completed" has the same meaning as
10 provided in s. 192.042(1).

11 9. The provisions of this paragraph shall expire and
12 be void on December 31, 2005.

13 Section 27. Paragraph (a) of subsection (2) of section
14 252.924, Florida Statutes, is amended to read:

15 252.924 Party state responsibilities.--

16 (2) The authorized representative of a party state may
17 request assistance of another party state by contacting the
18 authorizing representative of that state. The provisions of
19 this agreement shall only apply to requests for assistance
20 made by and to authorized representatives. Requests may be
21 verbal or in writing. If verbal, the request shall be
22 confirmed in writing within 90 days of the verbal request.
23 Requests shall provide the following information:

24 (a) A description of the emergency service function
25 for which assistance is needed, such as, but not limited to,
26 fire services, law enforcement, emergency medical,
27 transportation, communications, public works and engineering,
28 building code inspection, planning and information assistance,
29 mass care, resource support, health and medical services, and
30 search and rescue.

31

1 Section 28. Paragraph (j) of subsection (3) of section
2 404.056, Florida Statutes, is amended to read:

3 404.056 Environmental radiation standards and
4 programs; radon protection.--

5 (3) CERTIFICATION.--

6 (j) The department may set criteria and requirements
7 for the application, certification, and annual renewal of
8 certification for radon measurement and mitigation businesses,
9 which may include:

10 1. Requirements for measurement devices and
11 measurement procedures, including the disclosure of mitigation
12 materials, systems, and other mitigation services offered.

13 2. The identification of certified specialists and
14 technicians employed by the business and requirements for
15 specialist staffing and duties.

16 3. The analysis of measurement devices by proficient
17 analytical service providers.

18 4. Requirements for a quality assurance and quality
19 control program.

20 5. The disclosure of client measurement reporting
21 forms and warranties and operating instructions for mitigation
22 systems.

23 6. Requirements for radon services publications and
24 the identification of the radon business certification number
25 in advertisements.

26 7. Requirements for a worker health and safety
27 program.

28 8. Requirements for maintaining radon records.

29 9. The operation of branch office locations.

30 10. Requirements for supervising subcontractors who
31 install mitigation systems.

1 11. Requirements for building code inspections and
2 evaluation and standards for the design and installation of
3 mitigation systems.

4 12. Prescribing conditions of mitigation measurements.

5 Section 29. Section 471.045, Florida Statutes, is
6 amended to read:

7 471.045 Professional engineers performing building
8 code inspector duties.--Notwithstanding any other provision of
9 law, a person who is currently licensed under this chapter to
10 practice as a professional engineer may provide building code
11 inspection services described in s. 468.603(6) and (7) to a
12 local government or state agency upon its request, without
13 being certified by the Florida Building Code Administrators
14 and Inspectors Board under part XII of chapter 468. When
15 performing these building code inspection services, the
16 professional engineer is subject to the disciplinary
17 guidelines of this chapter and s. 468.621(1)(c)-(h). Any
18 complaint processing, investigation, and discipline that arise
19 out of a professional engineer's performing building code
20 inspection services shall be conducted by the Board of
21 Professional Engineers rather than the Florida Building Code
22 Administrators and Inspectors Board. A professional engineer
23 may not perform plans review as an employee of a local
24 government upon any job that the professional engineer or the
25 professional engineer's company designed.

26 Section 30. Section 481.222, Florida Statutes, is
27 amended to read:

28 481.222 Architects performing building code inspector
29 duties.--Notwithstanding any other provision of law, a person
30 who is currently licensed to practice as an architect under
31 this part may provide building code inspection services

1 described in s. 468.603(6) and (7) to a local government or
2 state agency upon its request, without being certified by the
3 Florida Building Code Administrators and Inspectors Board
4 under part XII of chapter 468. With respect to the performance
5 of such building code inspection services, the architect is
6 subject to the disciplinary guidelines of this part and s.
7 468.621(1)(c)-(h). Any complaint processing, investigation,
8 and discipline that arise out of an architect's performance of
9 building code inspection services shall be conducted by the
10 Board of Architecture and Interior Design rather than the
11 Florida Building Code Administrators and Inspectors Board. An
12 architect may not perform plans review as an employee of a
13 local government upon any job that the architect or the
14 architect's company designed.

15 Section 31. Paragraph (b) of subsection (18) of
16 section 489.103, Florida Statutes, is amended to read:

17 489.103 Exemptions.--This part does not apply to:

18 (18) Any one-family, two-family, or three-family
19 residence constructed by Habitat for Humanity International,
20 Inc., or its local affiliates. Habitat for Humanity
21 International, Inc., or its local affiliates, must:

22 (b) Obtain all required building code inspections.

23 Section 32. Subsection (7) of section 489.107, Florida
24 Statutes, is added to said section to read:

25 (7) Notwithstanding the provisions of s. 20.165(7),
26 the physical offices of the board shall be located in Leon
27 County.

28 Section 33. Section 725.06, Florida Statutes, is
29 amended to read:

30 725.06 Construction contracts; limitation on
31 indemnification.

1 (1) A construction contract may require the parties to
2 that contract to indemnify and hold harmless other parties to
3 the contract, their officers and employees, from liabilities,
4 damages, losses and costs, including, but not limited to
5 reasonable attorney's fees, to the extent caused by the
6 negligence, recklessness or intentional wrongful misconduct of
7 the indemnifying party and persons employed or utilized by the
8 indemnifying party in the performance of the construction
9 contract.

10 (2) Except as specifically provided in subsection (1),
11 a construction contract may not require one party to indemnify
12 the other party, its employees, officers, directors, or agents
13 from any liability, damage, loss, claim, action, or
14 proceeding, and any such contract provision is void as against
15 public policy of this state.

16 ~~Any portion of any agreement or contract for, or in~~
17 ~~connection with, any construction, alteration, repair, or~~
18 ~~demolition of a building, structure, appurtenance, or~~
19 ~~appliance, including moving and excavating connected with it,~~
20 ~~or any guarantee of, or in connection with, any of them,~~
21 ~~between an owner of real property and an architect, engineer,~~
22 ~~general contractor, subcontractor, sub-subcontractor, or~~
23 ~~materialman, or between any combination thereof, wherein any~~
24 ~~party referred to herein obtains indemnification from~~
25 ~~liability for damages to persons or property caused in whole~~
26 ~~or in part by any act, omission, or default of that party~~
27 ~~arising from the contract or its performance shall be void and~~
28 ~~unenforceable unless:~~

29 ~~(1) The contract contains a monetary limitation on the~~
30 ~~extent of the indemnification and shall be a part of the~~
31 ~~project specifications or bid documents, if any, or~~

1 ~~(2) The person indemnified by the contract gives a~~
2 ~~specific consideration to the indemnitor for the~~
3 ~~indemnification that shall be provided for in his or her~~
4 ~~contract and section of the project specifications or bid~~
5 ~~documents, if any.~~

6 Section 34. Subsection (7) is added to section
7 471.015, Florida Statutes, to read:

8 471.015 Licensure.--

9 (7) The board shall, by rule, establish qualifications
10 for certification of licensees as special inspectors of the
11 threshold buildings, as defined in sections 553.71 and 553.79,
12 and shall compile a list of persons so certified. Special
13 inspectors shall not be required to meet standards for
14 certification other than those established by the board, nor
15 shall the fee owner of a threshold building be prohibited from
16 selecting any person certified by the board to be a special
17 inspector. The board shall, by rule, further develop the
18 minimum qualifications for the special inspector's authorized
19 representative who is authorized to perform inspections of
20 threshold buildings on behalf of the special inspector,
21 pursuant to section 553.79.

22 Section 35. Subsections (1) and (3) of section
23 471.025, Florida Statutes, are amended to read:

24 471.025 Seals.--

25 (1) The board shall prescribe, by rule, a form of seal
26 to be used by registrants holding valid certificates of
27 registration. Each registrant shall obtain an impression-type
28 metal seal in the form aforesaid and may, in addition,
29 register his or her seal electronically in accordance with ss.
30 282.70-282.75. All final drawings, specifications, plans,
31 reports, or documents prepared or issued by the registrant and

1 being filed for public record and all final bid documents
2 provided to the owner or the owner's representative shall be
3 signed by the registrant, dated, and stamped with said seal.
4 Such signature, date, and seal shall be evidence of the
5 authenticity of that to which they are affixed. Drawings,
6 specifications, plans, reports, final bid documents, or
7 documents prepared or issued by a registrant may be
8 transmitted electronically and may be signed by the
9 registrant, dated, and stamped electronically with said seal
10 in accordance with ss. 282.70-282.75.

11 (3) No registrant shall affix or permit to be affixed
12 his or her seal, name, or digital signature to any plan,
13 specification, drawing, final bid document, or other document
14 that ~~which~~ depicts work which he or she is not licensed to
15 perform or which is beyond his or her profession or specialty
16 therein.

17 Section 36. Subsection (7) is added to section
18 481.213, Florida Statutes, to read:

19 481.213 Licensure.--

20 (7) The board shall, by rule, establish qualifications
21 for certification of licensees as special inspectors of
22 threshold buildings, as defined in section 553.71 and 553.79,
23 and shall compile a list of persons so certified. Special
24 inspectors shall not be required to meet standards for
25 certification other than those established by the board, nor
26 shall the fee owner of a threshold building be prohibited from
27 selecting any person certified by the board to be a special
28 inspector. The board shall, by rule, further develop the
29 minimum qualifications for the special inspector's authorized
30 representative who is authorized, pursuant to section 553.79,

31

1 to perform inspections of threshold buildings on behalf of the
2 special inspector.

3 Section 37. Section 489.13, Florida Statutes, is
4 amended to read:

5 489.13 Unlicensed contracting; notice of
6 noncompliance; fine; authority to issue or receive a building
7 permit; web page.--

8 (1) Any person performing an activity requiring
9 licensure under this part as a construction contractor is
10 guilty of unlicensed contracting if he or she does not hold a
11 valid active certificate or registration authorizing him or
12 her to perform such activity, regardless of whether he or she
13 holds a local construction contractor license or local
14 certificate of competency. Persons working outside the
15 geographical scope of their registration are guilty of
16 unlicensed activity for purposes of this part.

17 (2) For a first offense, any person who holds a state
18 or local construction license and is found guilty of
19 unlicensed contracting under this section shall be issued a
20 notice of noncompliance pursuant to s. 489.131(7).

21 (3) Notwithstanding s. 455.228, the department may
22 impose an administrative fine of up to \$10,000 on any
23 unlicensed person guilty of unlicensed contracting. In
24 addition, the department may assess reasonable investigative
25 and legal costs for prosecution of the violation against the
26 unlicensed contractor. The department may waive up to one-half
27 of any fine imposed if the unlicensed contractor complies with
28 certification or registration within 1 year after imposition
29 of the fine under this subsection.

30
31

1 (4)(a) Any fines collected under this section shall be
2 first used to cover the investigative and legal costs of
3 prosecution.

4 (b) Any local governing body that forwards information
5 relating to any person who is an unlicensed contractor shall
6 collect 30 percent of the fine collected, after deduction of
7 the investigative and legal costs of prosecution.

8 (c) The balance of any fines collected under this
9 section shall be used to maintain the department's unlicensed
10 contractor website page, as specified in subsection (6), and
11 to fund the Construction Industries Recovery Fund. Nothing in
12 this paragraph shall be construed to permit recovery from the
13 Construction Industries Recovery Fund if the contractor is
14 unlicensed.

15 ~~(5)(2)~~ A local building department shall not issue a
16 building permit to any contractor, or to any person
17 representing himself or herself as a contractor, who does not
18 hold a valid active certificate or registration in the
19 appropriate category. Possession of a local certificate of
20 competency or local construction license is not sufficient to
21 lawfully obtain a building permit as a construction contractor
22 if the activity in question requires licensure under this
23 part. Nothing in this section shall be construed as
24 prohibiting a local building department from issuing a
25 building permit to a locally licensed or certified contractor
26 for an activity that does not require licensure under this
27 part.

28 (6) The department shall create a web page, accessible
29 through its Internet website, dedicated solely to listing any
30 known information on unlicensed contractors. The information
31 shall be provided in such a way that any person with computer

1 on-line capabilities can access information on unlicensed
2 contractors by name or by county. The department shall
3 recognize that persons found guilty of unlicensed contracting
4 do not have the same rights and privileges as licensees, and
5 the department shall not restrict the quality or quantity of
6 information on the web page required by this subsection,
7 unless otherwise required by law.

8 (7) The remedies set forth in this section are not
9 exclusive and may be imposed in addition to the remedies set
10 forth in s. 489.127(2). In addition, nothing in this section
11 is intended to prohibit the department or any local governing
12 body from filing a civil action or seeking criminal penalties
13 against an unlicensed contractor.

14 Section 38. Paragraphs (j), (k), and (l) of subsection
15 (3) of section 489.105, Florida Statutes, are amended to read:

16 489.105 Definitions.--As used in this part:

17 (3) "Contractor" means the person who is qualified
18 for, and shall only be responsible for, the project contracted
19 for and means, except as exempted in this part, the person
20 who, for compensation, undertakes to, submits a bid to, or
21 does himself or herself or by others construct, repair, alter,
22 remodel, add to, demolish, subtract from, or improve any
23 building or structure, including related improvements to real
24 estate, for others or for resale to others; and whose job
25 scope is substantially similar to the job scope described in
26 one of the subsequent paragraphs of this subsection. For the
27 purposes of regulation under this part, "demolish" applies
28 only to demolition of steel tanks over 50 feet in height;
29 towers over 50 feet in height; other structures over 50 feet
30 in height, other than buildings or residences over three
31 stories tall; and buildings or residences over three stories

1 tall. Contractors are subdivided into two divisions, Division
 2 I, consisting of those contractors defined in paragraphs
 3 (a)-(c), and Division II, consisting of those contractors
 4 defined in paragraphs (d)-(q):

5 (j) "Commercial pool/spa contractor" means a
 6 contractor whose scope of work involves, but is not limited
 7 to, the construction, repair, and servicing of any swimming
 8 pool, or hot tub or spa, whether public, private, or
 9 otherwise, regardless of use. The scope of work includes
 10 including the installation, repair, or replacement of existing
 11 equipment, any cleaning or equipment sanitizing which requires
 12 at least a partial disassembling, excluding filter changes,
 13 and or the installation of new pool/spa equipment, interior
 14 finishes, the installation of package pool heaters, the
 15 installation of all perimeter piping and filter piping, and
 16 the construction of equipment rooms or housing for pool/spa
 17 equipment, as necessary. The scope of such work includes
 18 layout, excavation, operation of construction pumps for
 19 dewatering purposes, steelwork, installation of light niches,
 20 construction of floors, guniting, fibreglassing, installation
 21 of tile and coping, installation of all perimeter and filter
 22 piping, installation of all filter equipment and chemical
 23 feeders of any type, plastering of the interior, construction
 24 of decks, construction of equipment rooms or housing for pool
 25 equipment, and installation of package pool heaters and also
 26 includes the scope of work of a swimming pool/spa servicing
 27 contractor. ~~However,~~ The scope of such work does not include
 28 direct connections to a sanitary sewer system or to potable
 29 water lines. The installation, construction, modification, or
 30 replacement of equipment permanently attached to and
 31 associated with the pool or spa for the purpose of water

1 treatment or cleaning of the pool or spa requires licensure;
2 however, the usage of such equipment for the purposes of water
3 treatment or cleaning shall not require licensure unless the
4 usage involves construction, modification, or replacement of
5 such equipment. Water treatment that does not require such
6 equipment does not require a license. In addition, a license
7 shall not be required for the cleaning of the pool or spa in
8 any way that does not affect the structural integrity of the
9 pool or spa or its associated equipment.

10 (k) "Residential pool/spa contractor" means a
11 contractor whose scope of work involves, but is not limited
12 to, the construction, repair, and servicing of any residential
13 swimming pool, or hot tub or spa, regardless of use. The scope
14 of work includes, including the installation, repair, or
15 replacement of existing equipment, any cleaning or equipment
16 sanitizing which requires at least a partial disassembling,
17 excluding filter changes, and or the installation of new
18 pool/spa equipment, interior finishes, the installation of
19 package pool heaters, the installation of all perimeter piping
20 and filter piping, and the construction of equipment rooms or
21 housing for pool/spa equipment, as necessary. ~~The scope of~~
22 ~~such work includes layout, excavation, operation of~~
23 ~~construction pumps for dewatering purposes, steelwork,~~
24 ~~installation of light niches, construction of floors,~~
25 ~~guniting, fibreglassing, installation of tile and coping,~~
26 ~~installation of all perimeter and filter piping, installation~~
27 ~~of all filter equipment and chemical feeders of any type,~~
28 ~~plastering of the interior, construction of decks,~~
29 ~~installation of housing for pool equipment, and installation~~
30 ~~of package pool heaters~~ and also includes the scope of work of
31 a swimming pool/spa servicing contractor. ~~However,~~The scope

1 of such work does not include direct connections to a sanitary
2 sewer system or to potable water lines. The installation,
3 construction, modification, or replacement of equipment
4 permanently attached to and associated with the pool or spa
5 for the purpose of water treatment or cleaning of the pool or
6 spa requires licensure; however, the usage of such equipment
7 for the purposes of water treatment or cleaning shall not
8 require licensure unless the usage involves construction,
9 modification, or replacement of such equipment. Water
10 treatment that does not require such equipment does not
11 require a license. In addition, a license shall not be
12 required for the cleaning of the pool or spa in any way that
13 does not affect the structural integrity of the pool or spa or
14 its associated equipment.

15 (1) "Swimming pool/spa servicing contractor" means a
16 contractor whose scope of work involves, but is not limited
17 to, the repair and the servicing and repair of any swimming
18 pool, or hot tub or spa, whether public or private, or
19 otherwise, regardless of use. The scope of ~~such~~ work includes
20 the repair or may include any necessary piping and repairs,
21 replacement and repair of existing equipment, any cleaning or
22 equipment sanitizing which requires at least a partial
23 disassembling, excluding filter changes, and the or
24 installation of new pool/spa additional equipment, interior
25 refinishing, the reinstallation or addition of pool heaters,
26 the as necessary. ~~The scope of such work includes the~~
27 ~~reinstallation of tile and coping, repair or and replacement~~
28 ~~of all perimeter piping and filter piping, the repair of~~
29 ~~equipment rooms or housing for pool/spa equipment, and the~~
30 ~~substantial or complete draining of a swimming pool, or hot~~
31 ~~tub or spa, for the purpose of any repair or renovation. The~~

1 scope of such work does not include direct connections to a
2 sanitary sewer system or to potable water lines filter
3 ~~equipment, and chemical feeders of any type, replastering,~~
4 ~~reconstruction of decks, and reinstallation or addition of~~
5 ~~pool heaters.~~ The installation, construction, modification,
6 substantial or complete disassembly, or replacement of
7 equipment permanently attached to and associated with the pool
8 or spa for the purpose of water treatment or cleaning of the
9 pool or spa requires licensure; however, the usage of such
10 equipment for the purposes of water treatment or cleaning
11 shall not require licensure unless the usage involves
12 construction, modification, substantial or complete
13 disassembly, or replacement of such equipment. Water treatment
14 that does not require such equipment does not require a
15 license. In addition, a license shall not be required for the
16 cleaning of the pool or spa in any way that does not affect
17 the structural integrity of the pool or spa or its associated
18 equipment.

19 Section 39. Section 489.118, Florida Statutes, is
20 amended to read:

21 489.118 Certification of registered contractors;
22 grandfathering provisions.--The board shall, upon receipt of a
23 completed application and appropriate fee, issue a certificate
24 in the appropriate category to any contractor registered under
25 this part who makes application to the board and can show that
26 he or she meets each of the following requirements:

27 (1) Currently holds a valid registered local license
28 in one of the contractor categories defined in s.

29 489.105(3)(a)-(p).

30 (2) Has, for that category, passed a written
31 examination that the board finds to be substantially similar

1 to the examination required to be licensed as a certified
2 contractor under this part. For purposes of this subsection, a
3 written, proctored examination such as that produced by the
4 National Assessment Institute, Block and Associates, ~~or~~
5 NAI/Block, Experior Assessments, Professional Testing, Inc.,
6 or Assessment Systems, Inc., shall be considered to be
7 substantially similar to the examination required to be
8 licensed as a certified contractor. The board may not impose
9 or make any requirements regarding the nature or content of
10 these cited examinations.

11 (3) Has at least 5 years of experience as a contractor
12 in that contracting category, or as an inspector or building
13 administrator with oversight over that category, at the time
14 of application. For contractors, only time periods in which
15 the contractor license is active and the contractor is not on
16 probation shall count toward the 5 years required by this
17 subsection.

18 (4) Has not had his or her contractor's license
19 revoked at any time, had his or her contractor's license
20 suspended within the last 5 years, or been assessed a fine in
21 excess of \$500 within the last 5 years.

22 (5) Is in compliance with the insurance and financial
23 responsibility requirements in s. 489.115(5).

24
25 Applicants wishing to obtain a certificate pursuant to this
26 section must make application by November 1, 2004.

27 Section 40. Section 489.128, Florida Statutes, is
28 amended to read:

29 489.128 Contracts performed by unlicensed contractors
30 unenforceable.--As a matter of public policy, contracts
31 entered into on or after October 1, 1990, and performed in

1 full or in part by any contractor who fails to obtain or
2 maintain a license in accordance with this part shall be
3 unenforceable in law or in equity. ~~However, in the event the~~
4 ~~contractor obtains or reinstates his or her license, the~~
5 ~~provisions of this section shall no longer apply.~~

6 Section 41. Subsections (12) and (15) of section
7 489.503, Florida Statutes, are amended to read:

8 489.503 Exemptions.--This part does not apply to:

9 (12) Any person as defined and licensed under chapter
10 527 while engaged in work regulated under that chapter.

11 (15) The provision, installation, testing, routine
12 maintenance, factory-servicing, or monitoring of a personal
13 emergency response system, as defined in s. 489.505, by an
14 authorized person who:

15 (a) Is an employee of, or a volunteer supervised by an
16 employee of, a health care facility licensed by the Agency for
17 Health Care Administration;

18 (b) Performs services for the Department of Elderly
19 Affairs;

20 (c) Performs services for the Department of Children
21 and Family Services under chapter 410; or

22 (d) Is an employee of or an authorized representative
23 or distributor for the producer of the personal emergency
24 response system being monitored.

25 Section 42. Subsection (26) of section 489.505,
26 Florida Statutes, is amended to read:

27 489.505 Definitions.--As used in this part:

28 (26) "Personal emergency response system" means any
29 device which is simply plugged into a telephone jack or
30 electrical receptacle and which is designed to initiate a
31 telephone call to a person who responds to, or has a

1 responsibility to determine the proper response to, personal
2 emergencies, but does not include hard-wired or wireless alarm
3 systems designed to detect intrusion or fire.

4 Section 43. Section 489.507, Florida Statutes, is
5 amended to read:

6 489.507 Electrical Contractors' Licensing Board.--

7 (1) There is created in the department the Electrical
8 Contractors' Licensing Board. The board shall consist of 11
9 members, 7 of whom shall be certified electrical contractors,
10 2 of whom shall be consumer members who are not, and have
11 never been, electrical contractors or members of any closely
12 related profession or occupation, and 2 of whom shall be
13 certified alarm system contractors I. Members shall be
14 appointed for 4-year terms.

15 (2) To be eligible to serve, each contractor member
16 must have been certified by the board to operate as a
17 contractor in the category with respect to which the member is
18 appointed, be actively engaged in the construction business,
19 and have been so engaged for a period of not less than 5
20 consecutive years before the date of appointment. Each
21 appointee must be a citizen and resident of the state.

22 (3) The board has authority to adopt rules pursuant to
23 ss. 120.536(1) and 120.54 to implement the provisions of this
24 part.

25 (4) It is the intent of the Legislature that the board
26 promulgate no rules and take no action to require that
27 applicants for certification as alarm system contractors serve
28 any type of apprenticeship before being allowed to sit for the
29 certification examination.

30 (5) Any proposed board rule which has not been
31 modified to meet proposed committee objections of the Joint

1 Administrative Procedures Committee must receive concurrence
2 from the department prior to filing the rule with the
3 Department of State. The department may repeal any rule which
4 the board has enacted and which has taken effect without
5 having met proposed committee objections of the Joint
6 Administrative Procedures Committee.

7 (6)(5) The Electrical Contractors' Licensing Board and
8 the Construction Industry Licensing Board shall each appoint a
9 committee to meet jointly at least twice a year.

10 Section 44. Section 489.514, Florida Statutes, is
11 amended to read:

12 489.514 Certification for registered contractors;
13 grandfathering provisions.--

14 (1) The board shall, upon receipt of a completed
15 application, ~~and~~ appropriate fee, and proof of compliance with
16 the provisions of this section, issue: a certification in the
17 appropriate category to

18 (a) To an applying registered electrical contractor a
19 certificate as an electrical contractor, as defined in s.
20 489.505(12); or

21 (b) To an applying registered alarm system contractor
22 a certificate in the matching alarm system contractor
23 category, as defined in s. 489.505(2)(a) or (b); or

24 (c) To an applying registered electrical speciality
25 contractor a certificate in the matching electrical speciality
26 contractor category, as defined in s. 489.505(19).

27 (2) Any ~~any~~ contractor registered under this part who
28 makes application under this section to the board shall ~~and~~
29 ~~can show that he or she meets~~ meet each of the following
30 requirements for certification:

31

1 ~~(a)(1)~~ Currently holds a valid registered local
2 license in the category of electrical contractor,~~or~~ alarm
3 system contractor, or electrical speciality contractor.

4 ~~(b)(2)~~Has, for that category, passed a written,
5 proctored examination that the board finds to be substantially
6 similar to the examination required to be licensed as a
7 certified contractor under this part. For purposes of this
8 subsection, a written, proctored examination such as that
9 produced by the National Assessment Institute, Block and
10 Associates, ~~or~~ NAI/Block, Experior Assessments, Professional
11 Testing, Inc., or Assessment Systems, Inc., shall be
12 considered to be substantially similar to the examination
13 required to be licensed as a certified contractor. The board
14 may not impose or make any requirements regarding the nature
15 or content of these cited examinations.

16 ~~(c)(3)~~ Has at least 5 years of experience as a
17 contractor in that contracting category, or as a inspector or
18 building administrator with oversight over that category, at
19 the time of application. For contractors, only time periods in
20 which the contractor license is active and the contractor is
21 not on probation shall count toward the 5 years required under
22 this subsection.

23 ~~(d)(4)~~ Has not had his or her contractor's license
24 revoked at anytime, had his or her contractor's license
25 suspended in the last 5 years, or been assessed a fine in
26 excess of \$500 in the last 5 years.

27 ~~(e)(5)~~ Is in compliance with the insurance and
28 financial responsibility requirements in s. 489.515(1)(b).

29 (3) An applicant must make application by November 1,
30 2004, to be licensed pursuant to this section.

31

1 Section 45. Paragraph (e) is added to subsection (2)
2 of section 489.5185, Florida Statutes, to read:

3 489.5185 Fire alarm system agents.--

4 (2)

5 (e) Persons who perform only monitoring are not
6 required to complete the training required for fire alarm
7 system agents.

8 Section 46. Subsection (1) of section 489.522, Florida
9 Statutes, is amended to read:

10 489.522 Qualifying agents; responsibilities.--

11 (1)(a) A qualifying agent is a primary qualifying
12 agent unless he or she is a secondary qualifying agent under
13 this section. All primary qualifying agents for a business
14 organization are jointly and equally responsible for
15 supervision of all operations of the business organization;
16 for all field work at all sites; and for financial matters,
17 both for the organization in general and for each specific
18 job.

19 (b) When a qualifying agent ceases to qualify a
20 business, the qualifying agent must transfer the license to
21 another business, qualify himself or herself as an individual,
22 or place the license in an inactive status within 60 days
23 after termination of the qualifying status with the business.

24 Section 47. Subsection (5) of section 489.531, Florida
25 Statutes, is renumbered as subsection (6) and amended, present
26 subsections (3), (4), (6), and (7) are renumbered as
27 subsections (4), (5), (7), and (8), respectively, and a new
28 subsection (3) is added to said section, to read:

29 489.531 Prohibitions; penalties.--

30 (1) A person may not:

31

- 1 (a) Practice contracting unless the person is
2 certified or registered;
- 3 (b) Use the name or title "electrical contractor" or
4 "alarm system contractor" or words to that effect, or
5 advertise himself or herself or a business organization as
6 available to practice electrical or alarm system contracting,
7 when the person is not then the holder of a valid
8 certification or registration issued pursuant to this part;
- 9 (c) Present as his or her own the certificate or
10 registration of another;
- 11 (d) Use or attempt to use a certificate or
12 registration that has been suspended, revoked, or placed on
13 inactive or delinquent status;
- 14 (e) Employ persons who are not certified or registered
15 to practice contracting;
- 16 (f) Knowingly give false or forged evidence to the
17 department, the board, or a member thereof;
- 18 (g) Operate a business organization engaged in
19 contracting after 60 days following the termination of its
20 only qualifying agent without designating another primary
21 qualifying agent;
- 22 (h) Conceal information relative to violations of this
23 part;
- 24 (i) Commence or perform work for which a building
25 permit is required pursuant to part VII of chapter 533 without
26 the building permit being in effect; or
- 27 (j) Willfully or deliberately disregard or violate any
28 municipal or county ordinance relating to uncertified or
29 unregistered contractors.
- 30 (3)(a) Any unlicensed person who violates any of the
31 provisions of subsection (1) commits a misdemeanor of the

1 first degree, punishable as provided in s. 775.082 or s.
2 775.083.

3 (b) Any unlicensed person who commits a violation of
4 subsection (1) after having been previously found guilty of
5 such violation commits a felony of the third degree,
6 punishable as provided in s. 775.082 or s. 775.083.

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

12
13 The remedies set forth in this subsection are not exclusive
14 and may be imposed in addition to the remedies set forth in s.
15 489.533(2).

16 (6)(5)(a) The local governing body of a county or
17 municipality, or its local enforcement body, is authorized to
18 enforce the provisions of this part as well as its local
19 ordinances against ~~locally licensed or~~ registered contractors,
20 as appropriate. The local jurisdiction enforcement body may
21 conduct disciplinary proceedings against a ~~locally licensed or~~
22 registered contractor and may require restitution or impose a
23 suspension or revocation of the local license or a fine not to
24 exceed \$5,000, or a combination thereof, against the ~~locally~~
25 ~~licensed or~~ registered contractor, according to ordinances
26 which a local jurisdiction may enact. In addition, the local
27 jurisdiction may assess reasonable investigative and legal
28 costs for the prosecution of the violation against the
29 registered contractor ~~violation~~, according to such ordinances
30 as the local jurisdiction may enact.

31

1 (b) In addition to any action the local jurisdiction
 2 enforcement body may take against the individual's local
 3 license, and any fine the local jurisdiction may impose, the
 4 local jurisdiction enforcement body shall issue a recommended
 5 penalty for board action. This recommended penalty may
 6 include a recommendation for no further action or a
 7 recommendation for suspension, revocation, or restriction of
 8 the registration or imposition of a fine to be levied by the
 9 board, or a combination thereof. The local jurisdiction
 10 enforcement body shall inform the disciplined registered
 11 contractor and the complainant of the local ~~license~~ penalty
 12 imposed, the board penalty recommended, the rights to appeal,
 13 and the consequences should the registered contractor decide
 14 not to appeal. The local jurisdiction enforcement body shall,
 15 upon having reached adjudication or having accepted a plea of
 16 nolo contendere, immediately inform the board of its action
 17 and the recommended board penalty.

18 (c) The department, the disciplined registered
 19 contractor, or the complainant may challenge the local
 20 jurisdiction enforcement body's recommended penalty for board
 21 action to the Electrical Contractors' Licensing Board. A
 22 challenge shall be filed within 60 days after the issuance of
 23 the recommended penalty to the board. If challenged, there is
 24 a presumptive finding of probable cause and the case may
 25 proceed without the need for a probable cause hearing.

26 (d) Failure of the department, the disciplined
 27 registered contractor, or the complainant to challenge the
 28 local jurisdiction's recommended penalty within the time
 29 period set forth in this subsection shall constitute a waiver
 30 of the right to a hearing before the board. A waiver of the
 31 right to a hearing before the board shall be deemed an

1 admission of the violation, and the penalty recommended shall
2 become a final order according to procedures developed by
3 board rule without further board action. The disciplined
4 registered contractor may appeal this board action to the
5 district court.

6 (e) The department may investigate any complaint which
7 is made with the department. However, if the department
8 determines that the complaint against a registered contractor
9 is for an action which a local jurisdiction enforcement body
10 has investigated and reached adjudication or accepted a plea
11 of nolo contendere, including a recommended penalty to the
12 board, the department shall not initiate prosecution for that
13 action, unless the secretary has initiated summary procedures
14 pursuant to s. 455.225(8).

15 (f) Nothing in this subsection shall be construed to
16 allow local jurisdictions to exercise disciplinary authority
17 over certified contractors.

18 Section 48. Section 489.532, Florida Statutes, is
19 amended to read:

20 489.532 Contracts performed by unlicensed contractors
21 unenforceable.--As a matter of public policy, contracts
22 entered into on or after October 1, 1990, and performed in
23 full or in part by any contractor who fails to obtain or
24 maintain his or her license in accordance with this part shall
25 be unenforceable in law, and the court in its discretion may
26 extend this provision to equitable remedies. ~~However, in the~~
27 ~~event the contractor obtains or reinstates the license the~~
28 ~~provisions of this section shall no longer apply.~~

29 Section 49. Subsection (9) of section 553.71, Florida
30 Statutes, is created to read:

31 553.71 Definitions.--

1 As used in this part, the term:

2 (9)"Special inspector" means a licensed architect or
3 registered engineer certified, pursuant to chapter 471 or 481,
4 to conduct inspections of threshold buildings.

5 Section 50. Paragraph (c) of subsection (5) of section
6 553.79, Florida Statutes, is amended to read:

7 553.79 Permits; applications; issuance; inspections.--

8 (5)

9 (c) ~~The commission shall, by rule, establish a~~
10 ~~qualification program for special inspectors and shall compile~~
11 ~~a list of persons qualified to be special inspectors. Special~~
12 ~~inspectors shall not be required to meet standards for~~
13 ~~qualification other than those established by the commission,~~
14 ~~nor shall the fee owner of a threshold building be prohibited~~
15 ~~from selecting any person qualified by the commission to be a~~
16 ~~special inspector. The architect or engineer of record may~~
17 ~~act as the special inspector provided she or he is on the~~
18 Board of Professional Engineers' or the Board of Architecture
19 and Interior Design's list of persons qualified to be special
20 inspectors. School boards may utilize employees as special
21 inspectors provided such employees are on one of the
22 professional licensing boards' list of persons qualified to be
23 special inspectors.

24 Section 51. Subsections (14) through (26) of section
25 633.021, Florida Statutes, are renumbered as subsections (15)
26 through (27), and a new subsection (14) is added to said
27 section, to read:

28 633.021 Definitions.--As used in this chapter:

29 (14) "Layout" as used in this chapter means the layout
30 of risers, cross mains, branch lines, sprinkler heads, sizing
31 of pipe, hanger locations, and hydraulic calculations in

1 accordance with the design concepts established through the
2 provisions of s. 553.79(6)(c).

3 Section 52. Except as otherwise provided, this act
4 shall take effect July 1, 2000.

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