

1                   A bill to be entitled  
2           An act relating to construction; amending s.  
3           489.118, F.S.; providing for licensing of  
4           locally licensed contractors; amending s.  
5           218.72, F.S.; redefining the terms "local  
6           government entity," "purchase," and  
7           "construction services" and defining the terms  
8           "payment request" and "agent" for the purpose  
9           of the Florida Prompt Payment Act; amending s.  
10          218.73, F.S.; providing for timely payment for  
11          nonconstruction services; amending s. 218.735,  
12          F.S.; revising language with respect to timely  
13          payment for purchases of construction services;  
14          amending s. 218.74, F.S.; revising language  
15          with respect to procedures for calculation of  
16          payment due dates; amending s. 218.75, F.S.;  
17          revising language with respect to mandatory  
18          interest; amending s. 218.76, F.S.; revising  
19          language with respect to improper invoices and  
20          resolution of disputes; providing for the  
21          recovery of court costs and attorney's fees  
22          under certain circumstances; amending s.  
23          255.05, F.S.; revising language with respect to  
24          the bond of a contractor constructing public  
25          buildings; requiring the Office of Program  
26          Policy Analysis and Government Accountability,  
27          in consultation with the Legislative Committee  
28          on Intergovernmental Relations, to conduct a  
29          study of construction retainage methods;  
30          specifying areas to be examined; requiring  
31          study conclusions and recommendations; amending

1 s. 399.13, F.S.; correcting a reference with  
 2 regard to the inspection code; amending s.  
 3 468.603, F.S.; redefining "building code  
 4 inspector" and "categories of building  
 5 inspectors" and defining "building code  
 6 enforcement official"; revising intent with  
 7 respect to the examination required for  
 8 certification as a building code administrator,  
 9 plans examiner, or building code inspector;  
 10 increasing the validity period of a provisional  
 11 certificate; clarifying to whom a provisional  
 12 certificate may be issued; authorizing newly  
 13 employed or hired persons applying for  
 14 provisional certification to perform for a  
 15 specified period the duties of a plans examiner  
 16 or building code inspector under the direct  
 17 supervision of a building code administrator  
 18 holding limited or provisional certification in  
 19 counties with populations below a specified  
 20 level and the municipalities therein; deleting  
 21 obsolete standard certificate equivalency  
 22 provisions; providing for consistency in  
 23 terminology; creating s. 468.619, F.S.;  
 24 establishing special disciplinary procedures  
 25 for building code enforcement officials;  
 26 amending ss. 112.3145, 125.56, 212.08, 252.924,  
 27 404.056, 468.603, 468.604, 468.605, 468.607,  
 28 468.617, 468.621, 468.627, 468.631, 468.633,  
 29 471.045, 481.222, and 489.103, F.S.; providing  
 30 for consistency in terminology; amending s.  
 31 725.06, F.S.; providing for indemnification in

1 construction contracts and voiding all others  
 2 as being against public policy; amending s.  
 3 471.025, F.S.; adding a circumstance under  
 4 which engineering documents must be sealed;  
 5 amending s. 489.13, F.S.; providing additional  
 6 disciplinary penalties for unlicensed  
 7 electrical or alarm system contracting;  
 8 amending s. 489.105, F.S.; revising the scope  
 9 of work of commercial and residential pool/spa  
 10 contractors and swimming pool/spa servicing  
 11 contractors; amending s. 489.118, F.S.;  
 12 limiting the time period during which  
 13 registered applicants must apply to receive  
 14 certification; amending s. 489.128, F.S.;  
 15 eliminating an exemption from a provision  
 16 invalidating contracts with unlicensed  
 17 contractors; amending s. 489.503, F.S.;  
 18 revising exemptions from regulation under pt.  
 19 II, ch. 489, F.S., relating to electrical and  
 20 alarm system contracting; amending s. 489.505,  
 21 F.S.; revising the definition of "personal  
 22 emergency response system"; amending s.  
 23 489.507, F.S.; limiting the rule making  
 24 authority of the Electrical Contractors  
 25 Licensing Board; amending s. 489.514, F.S.;  
 26 revising grandfathering provisions for  
 27 certification of registered electrical and  
 28 alarm system contractors; amending s. 489.5185,  
 29 F.S.; providing that persons who perform only  
 30 monitoring are not required to complete the  
 31 training required for fire alarm system agents;

1 amending s. 489.522, F.S.; providing  
2 requirements when a qualifying agent ceases to  
3 qualify a business; amending s. 489.531, F.S.;  
4 providing penalties for violations by  
5 unlicensed persons of acts prohibited under pt.  
6 II, ch. 489, F.S., relating to electrical and  
7 alarm system contracting; amending s. 489.532,  
8 F.S.; eliminating an exemption from a provision  
9 invalidating contracts with unlicensed  
10 contractors; amending s. 633.021, F.S.; adding  
11 a definition of "layout"; providing an  
12 effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16 Section 1. Section 489.118, Florida Statutes, is  
17 amended to read:

18 489.118 Certification of registered contractors;  
19 grandfathering provisions.--The board shall, upon receipt of a  
20 completed application and appropriate fee, issue a certificate  
21 in the appropriate category to any contractor registered under  
22 this part who makes application to the board and can show that  
23 he or she meets each of the ~~following~~ requirements or either  
24 subsection (1) or subsection (2):

25 (1)(a) Currently holds a valid registered local  
26 license in one of the contractor categories defined in s.  
27 489.105(3)(a)-(p).

28 (b)~~(2)~~ Has, for that category, passed a written  
29 examination that the board finds to be substantially similar  
30 to the examination required to be licensed as a certified  
31 contractor under this part. For purposes of this subsection, a

1 written, proctored examination such as that produced by the  
2 National Assessment Institute, Block and Associates, or  
3 NAI/Block shall be considered to be substantially similar to  
4 the examination required to be licensed as a certified  
5 contractor.

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

13 (d)~~(4)~~ Has not had his or her contractor's license  
14 revoked at any time, had his or her contractor's license  
15 suspended within the last 5 years, or been assessed a fine in  
16 excess of \$500 within the last 5 years.

17 (e)~~(5)~~ Is in compliance with the insurance and  
18 financial responsibility requirements in s. 489.115(5).

19 (2)(a) Has held a valid registered local license in  
20 one of the contractor categories defined in s.  
21 489.105(3)(a)-(p) for at least 25 years.

22 (b) Has never had any disciplinary action taken  
23 against him or her.

24 Section 2. Subsections (2), (5), and (7) of section  
25 218.72, Florida Statutes, are amended, and subsections (8) and  
26 (9) are added to said section, to read:

27 218.72 Definitions.--As used in this part:

28 (2) "Local governmental entity" means a county or  
29 municipal government, school board, school district,  
30 authority, special taxing district, other political  
31 subdivision, community college, or any office, board, bureau,

1 commission, department, branch, division, or institution  
2 thereof or any project supported by county or municipal funds.

3 (5) "Purchase" means the purchase of goods,or  
4 services, or construction services,the purchase or lease of  
5 personal property, or the lease of real property by a local  
6 governmental entity.

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

12 (8) "Payment request" means a request for payment for  
13 construction services which conforms with all statutory  
14 requirements and with all requirements specified by the local  
15 governmental entity to which the payment request is submitted  
16 if:

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

20 (b) The local governmental entity made such  
21 requirements available to vendors.

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

25 Section 3. Section 218.73, Florida Statutes, is  
26 amended to read:

27 218.73 Timely payment for nonconstruction  
28 services.--The time at which payment is due for a purchase  
29 other than construction services by a local governmental  
30 entity, except for the purchase of construction services, is  
31 ~~due~~ must be calculated from:

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

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

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

8 (b) On which services are completed;

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

10 (d) On which the local governmental entity and vendor  
11 agree in a contract that provides dates relative to payment  
12 periods;

13  
14 whichever date is latest.

15 Section 4. Section 218.735, Florida Statutes, is  
16 amended to read:

17 218.735 Timely payment for purchases of construction  
18 services.--

19 (1) The due date for payment for the purchase of  
20 construction services by a local governmental entity is  
21 determined as follows:

22 (a) If an agent ~~the project architect or project~~  
23 ~~engineer~~ must approve the payment request or invoice prior to  
24 the payment request or invoice being submitted to the local  
25 governmental entity, payment is due 25 ~~20~~ business days after  
26 the date on which the payment request or ~~architect or engineer~~  
27 ~~approves the invoice and the~~ invoice is stamped as received as  
28 provided in s. 218.74(1).

29 (b) If an agent ~~the project architect or project~~  
30 ~~engineer~~ need not approve the payment request or invoice which  
31 is submitted by the contractor, payment is due 20 business

1 days after the date on which the payment request or invoice is  
2 stamped as received as provided in s. 218.74(1).

3 (2) The local governmental entity may reject the  
4 payment request or invoice within 20 business days after the  
5 date on which the payment request or invoice is stamped as  
6 received as provided in s. 218.74(1). The rejection must be  
7 written and must specify the deficiency in the payment request  
8 or invoice and the action necessary to make the payment  
9 request or invoice proper.

10 (3) If a payment request or an invoice is rejected  
11 under subsection (2) ~~or this subsection~~ and the contractor  
12 submits a corrected payment request or invoice which corrects  
13 the deficiency specified in writing by the local governmental  
14 entity, the corrected payment request or invoice must be paid  
15 or rejected on the later of:

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

19 (b) If the governing body is required by ordinance,  
20 charter, or other law to approve or reject the corrected  
21 payment request or invoice, the first business day after the  
22 next regularly scheduled meeting of the governing body held  
23 after the corrected payment request or invoice is stamped as  
24 received as provided in s. 218.74(1).

25 (4) If a dispute between the local governmental entity  
26 and the contractor cannot be resolved by the procedure in  
27 subsection (3), the dispute must be resolved in accordance  
28 with the dispute resolution procedure prescribed in the  
29 construction contract or in any applicable ordinance. In the  
30 absence of a prescribed procedure, the dispute must be  
31 resolved by the procedure specified in s. 218.76(2).



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

8           (6) When a contractor receives payment from a local  
 9 governmental entity for labor, services, or materials  
 10 furnished by subcontractors and suppliers hired by the  
 11 contractor, the contractor shall remit payment due to those  
 12 subcontractors and suppliers within 15 days after the  
 13 contractor's receipt of payment. When a subcontractor  
 14 receives payment from a contractor for labor, services, or  
 15 materials furnished by subcontractors and suppliers hired by  
 16 the subcontractor, the subcontractor shall remit payment due  
 17 to those subcontractors and suppliers within 15 days after the  
 18 subcontractor's receipt of payment. Nothing herein shall  
 19 prohibit a contractor or subcontractor from disputing,  
 20 pursuant to the terms of the relevant contract, all or any  
 21 portion of a payment alleged to be due to another party. In  
 22 the event of such a dispute, the contractor or subcontractor  
 23 may withhold the disputed portion of any such payment but the  
 24 undisputed portion must be remitted within the time limits  
 25 imposed by this subsection.

26           ~~(7)~~(6) All payments due under this section from a  
 27 local governmental entity and not made within the time periods  
 28 period specified by this section shall bear interest at the  
 29 rate of 1 percent per month, or the rate specified by  
 30 contract, whichever is greater as specified in s. 218.74(4).

1 Section 5. Section 218.74, Florida Statutes, is  
2 amended to read:

3 218.74 Procedures for calculation of payment due  
4 dates.--

5 (1) Each local governmental entity shall establish  
6 procedures whereby each payment request or invoice received by  
7 the local governmental entity is marked as received on the  
8 date on which it is delivered to an agent or employee of the  
9 local governmental entity or of a facility or office of the  
10 local governmental entity.

11 (2) The payment due date for a local governmental  
12 entity for the purchase of goods or services other than  
13 construction services is 45 days after the date specified in  
14 s. 218.73. The payment due date for the purchase of  
15 construction services is specified in s. 218.735.

16 (3) If the terms under which a purchase is made allow  
17 for partial deliveries and a payment request or proper invoice  
18 is submitted for a partial delivery, the time for payment for  
19 the partial delivery must be calculated from the time of the  
20 partial delivery and the submission of the payment request or  
21 invoice in the same manner as provided in s. 218.73 or s.  
22 218.735.

23 (4) All payments, other than payments for construction  
24 services, due from a local governmental entity and not made  
25 within the time specified by this section bear interest from  
26 30 days after the due date at the rate of 1 percent per month  
27 on the unpaid balance. The vendor must invoice the local  
28 governmental entity for any interest accrued in order to  
29 receive the interest payment. Any overdue period of less than  
30 1 month is considered as 1 month in computing interest.  
31 Unpaid interest is compounded monthly. ~~With respect to each~~

1 ~~past due payment, interest ceases to accrue after interest on~~  
2 ~~that payment has accrued for 12 months.~~For the purposes of  
3 this section, the term "1 month" means a period beginning on  
4 any day of one month and ending on the same day of the  
5 following month.

6 Section 6. Section 218.75, Florida Statutes, is  
7 amended to read:

8 218.75 Mandatory interest.--No contract between a  
9 local governmental entity and a vendor or a provider of  
10 construction services shall prohibit the collection of vendor  
11 ~~from invoicing the local governmental entity for late payment~~  
12 interest charges allowable under this part.

13 Section 7. Section 218.76, Florida Statutes, is  
14 amended to read:

15 218.76 Improper payment request or invoice; resolution  
16 of disputes.--

17 (1) In any case in which an improper payment request  
18 or invoice is submitted by a vendor, the local governmental  
19 entity shall, within 10 days after the improper payment  
20 request or invoice is received by it, notify the vendor that  
21 the payment request or invoice is improper and indicate what  
22 corrective action on the part of the vendor is needed to make  
23 the payment request or invoice proper.

24 (2) In the event a dispute occurs between a vendor and  
25 a local governmental entity concerning payment of a payment  
26 request or an invoice, such disagreement shall be finally  
27 determined by the local governmental entity as provided in  
28 this section. Each local governmental entity shall establish  
29 a dispute resolution procedure to be followed by the local  
30 governmental entity in cases of such disputes. Such procedure  
31 shall provide that proceedings to resolve the dispute shall be

1 commenced not later than 45 days after the date on which the  
 2 payment request or proper invoice was received by the local  
 3 governmental entity and shall be concluded by final decision  
 4 of the local governmental entity not later than 60 days after  
 5 the date on which the payment request or proper invoice was  
 6 received by the local governmental entity. Such procedures  
 7 shall not be subject to chapter 120, and such procedures shall  
 8 not constitute an administrative proceeding which prohibits a  
 9 court from deciding de novo any action arising out of the  
 10 dispute. If the dispute is resolved in favor of the local  
 11 governmental entity, then interest charges shall begin to  
 12 accrue 10 ~~15~~ days after the local governmental entity's final  
 13 decision. If the dispute is resolved in favor of the vendor,  
 14 then interest shall begin to accrue as of the original date  
 15 the payment became due.

16 (3) In an action to recover amounts due under s.  
 17 218.70-218.80, the prevailing party shall be entitled to  
 18 recover court costs and attorney's fees at trial and on  
 19 appeal.

20 Section 8. Paragraph (a) of subsection (1) and  
 21 paragraph (a) of subsection (2) of section 255.05, Florida  
 22 Statutes, are amended to read:

23 255.05 Bond of contractor constructing public  
 24 buildings; form; action by materialmen.--

25 (1)(a) Any person entering into a formal contract with  
 26 the state or any county, city, or political subdivision  
 27 thereof, or other public authority, for the construction of a  
 28 public building, for the prosecution and completion of a  
 29 public work, or for repairs upon a public building or public  
 30 work shall be required, before commencing the work or before  
 31 recommencing the work after a default or abandonment, to

1 execute, deliver to the public owner, and record in the public  
 2 records of the county where the improvement is located, a  
 3 payment and performance bond with a surety insurer authorized  
 4 to do business in this state as surety. The bond must state on  
 5 its front page: the name, principal business address, and  
 6 phone number of the contractor, the surety, the owner of the  
 7 property being improved, and, if different from the owner, the  
 8 contracting public entity; the contract number assigned by the  
 9 contracting public entity; and a description of the project  
 10 sufficient to identify it, such as including, if applicable,a  
 11 legal description or ~~and~~ the street address of the property  
 12 being improved, ~~and~~ a general description of the improvement.  
 13 Such bond shall be conditioned solely upon the contractor's  
 14 performance of the construction work ~~that the contractor~~  
 15 ~~perform the contract~~ in the time and manner prescribed in the  
 16 contract and the contractor's prompt payment ~~promptly make~~  
 17 ~~payments~~ to all persons defined in s. 713.01 who furnished  
 18 labor, services, or materials for ~~whose claims derive directly~~  
 19 ~~or indirectly from~~ the prosecution of the work provided for in  
 20 the contract. Any claimant may apply to the governmental  
 21 entity having charge of the work for copies of the contract  
 22 and bond and shall thereupon be furnished with a certified  
 23 copy of the contract and bond. The claimant shall have a right  
 24 of action against the contractor and surety for the amount due  
 25 him or her, including unpaid finance charges due under the  
 26 claimant's contract. Such action shall not involve the public  
 27 authority in any expense. When such work is done for the  
 28 state and the contract is for \$100,000 or less, no payment and  
 29 performance bond shall be required. At the discretion of the  
 30 official or board awarding such contract when such work is  
 31 done for any county, city, political subdivision, or public

1 authority, any person entering into such a contract which is  
2 for \$200,000 or less may be exempted from executing the  
3 payment and performance bond. When such work is done for the  
4 state, the Secretary of the Department of Management Services  
5 may delegate to state agencies the authority to exempt any  
6 person entering into such a contract amounting to more than  
7 \$100,000 but less than \$200,000 from executing the payment and  
8 performance bond. In the event such exemption is granted, the  
9 officer or officials shall not be personally liable to persons  
10 suffering loss because of granting such exemption. The  
11 Department of Management Services shall maintain information  
12 on the number of requests by state agencies for delegation of  
13 authority to waive the bond requirements by agency and project  
14 number and whether any request for delegation was denied and  
15 the justification for the denial.

16 (2)(a)1. If a claimant is no longer furnishing labor,  
17 services, or materials on a project, a contractor or the  
18 contractor's agent or attorney may elect to shorten the  
19 prescribed time in this paragraph within which an action to  
20 enforce any claim against a payment bond provided pursuant to  
21 this section may be commenced by recording in the clerk's  
22 office a notice in substantially the following form:

23  
24 NOTICE OF CONTEST OF CLAIM  
25 AGAINST PAYMENT BOND  
26

27  
28 To: ...(Name and address of claimant)...

29 You are notified that the undersigned contests your  
30 notice of nonpayment, dated ....., ....., and served  
31 on the undersigned on ....., ....., and that the

1 time within which you may file suit to enforce your claim is  
2 limited to 60 days after the date of service of this notice.

3

4 DATED on ....., .....

5

6

7 Signed:...(Contractor or Attorney)...

8

9

10 The claim of any claimant upon whom such notice is served and  
11 who fails to institute a suit to enforce his or her claim  
12 against the payment bond within 60 days after service of such  
13 notice shall be extinguished automatically. The clerk shall  
14 mail a copy of the notice of contest to the claimant at the  
15 address shown in the notice of nonpayment or most recent  
16 amendment thereto and shall certify to such service on the  
17 face of such notice and record the notice. Service is complete  
18 upon mailing.

19 2. A claimant, except a laborer, who is not in privity  
20 with the contractor shall, before commencing or not later than  
21 45 days after commencing to furnish labor, materials, or  
22 supplies for the prosecution of the work, furnish the  
23 contractor with a notice that he or she intends to look to the  
24 bond for protection. A claimant who is not in privity with the  
25 contractor and who has not received payment for his or her  
26 labor, materials, or supplies shall deliver to the contractor  
27 and to the surety written notice of the performance of the  
28 labor or delivery of the materials or supplies and of the  
29 nonpayment. The notice of nonpayment may be served at any time  
30 during the progress of the work or thereafter but ~~not before~~  
31 ~~45 days after the first furnishing of labor, services, or~~

1 ~~materials,~~ and not later than 90 days after the final  
 2 furnishing of the labor, services, or materials by the  
 3 claimant or, with respect to rental equipment, not later than  
 4 90 days after the date that the rental equipment was last on  
 5 the job site available for use. No action for the labor,  
 6 materials, or supplies may be instituted against the  
 7 contractor or the surety unless both notices have been given.  
 8 Notices required or permitted under this section may be served  
 9 in accordance with s. 713.18. An action, except for an action  
 10 exclusively for recovery of retainage, must be instituted  
 11 against the contractor or the surety on the payment bond or  
 12 the payment provisions of a combined payment and performance  
 13 bond within 1 year after the performance of the labor or  
 14 completion of delivery of the materials or supplies. An action  
 15 exclusively for recovery of retainage must be instituted  
 16 against the contractor or the surety within 1 year after the  
 17 performance of the labor or completion of delivery of the  
 18 materials or supplies, or within 90 days after ~~the~~  
 19 ~~contractor's~~ receipt of final payment (or the payment estimate  
 20 containing the owner's final reconciliation of quantities if  
 21 no further payment is earned and due as a result of deductive  
 22 adjustments) by the contractor or surety, whichever comes  
 23 last. A claimant may not waive in advance his or her right to  
 24 bring an action under the bond against the surety. In any  
 25 action brought to enforce a claim against a payment bond under  
 26 this section, the prevailing party is entitled to recover a  
 27 reasonable fee for the services of his or her attorney for  
 28 trial and appeal or for arbitration, in an amount to be  
 29 determined by the court, which fee must be taxed as part of  
 30 the prevailing party's costs, as allowed in equitable actions.  
 31 The time periods for service of a notice of nonpayment or for



1 bringing an action against a contractor or a surety shall be  
2 measured from the last day of furnishing labor, services, or  
3 materials by the claimant and shall not be measured by other  
4 standards, such as the issuance of a certificate of occupancy  
5 or the issuance of a certificate of substantial completion.

6 Section 9. Effective upon this act becoming a law, the  
7 Office of Program Policy Analysis and Government  
8 Accountability (OPPAGA), in consultation with the Legislative  
9 Committee on Intergovernmental Relations, shall:

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

14 (a) Information from various state and local  
15 governmental entities, public universities, and community  
16 colleges within the state of Florida.

17 (b) Information from the federal government and other  
18 states who have addressed construction payment or retainage  
19 issues, including states that are of comparable size to the  
20 state of Florida or that have a comparable amount of public or  
21 private construction activity as the state of Florida.

22 (c) Information from public and private owners,  
23 general contractors, subcontractors, material suppliers,  
24 construction managers, design-build professionals, architects,  
25 and engineers.

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

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

30 (a) Whether the state should adopt new laws or modify  
31 existing laws to address the specific issues set forth below,

1 and whether any existing statutes will require modification or  
2 repeal.

3 (b) The positive and negative impacts of the current  
4 systems of retainage being utilized throughout the state as  
5 applied to public sector and private sector construction  
6 contracts, and as between owners and contractors, between  
7 contractors and subcontractors, and between subcontractors and  
8 subcontractor.

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

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

14 (e) What the purposes of retainage are for  
15 construction projects.

16 (f) Whether it is appropriate to hold all retainage  
17 until the end of a construction project or whether periodic  
18 release of retainage or release of retainage for specific  
19 divisions of work on a construction project is appropriate and  
20 reasonably manageable.

21 (g) What protections are currently in place for owners  
22 to insure that construction projects are progressing in a  
23 satisfactory manner, including, but not limited to, project  
24 management techniques, periodic inspections, services of  
25 project architects and engineers, and whether those  
26 protections are being adequately and properly utilized.

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

30 (i) Whether the documentation required for  
31 construction projects contributes to delays in progress

1 payments, final payments, and release of retainage; whether  
2 such requirements could be simplified or standardized to  
3 streamline the process; and whether it is appropriate for the  
4 Legislature to address this issue.

5 (j) Whether the Legislature should limit the  
6 percentage of retainage that can be held on public and private  
7 construction projects.

8 (k) Whether the Legislature should provide for  
9 periodic release of retainage on public and private  
10 construction projects.

11 (l) Whether the Legislature should establish  
12 requirements and time limits for owners and contractors to  
13 release final payment and retainage on all construction  
14 projects.

15 (3) OPPAGA shall present a report of its findings and  
16 recommendations to the President of the Senate, the Speaker of  
17 the House of Representatives, minority leaders of the Senate  
18 and House of Representatives, and chairs of the House Business  
19 Regulation & Consumer Affairs Committee and the Senate  
20 Regulated Industries Committee by January 1, 2001.

21 Section 10. Sections amending sections 218.72, 218.73,  
22 218.735, 218.74, 218.75, 218.76, and 255.05, F.S., shall take  
23 effect July 1, 2000, and shall apply to construction contracts  
24 entered into on or after July 1, 2000.

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

27 399.13 Delegation of authority to municipalities or  
28 counties.--

29 (1) The division may enter into contracts with  
30 municipalities or counties under which such municipalities or  
31 counties will issue construction permits, temporary operation

1 permits, and certificates of operation; will provide  
2 inspection of elevators; and will enforce the applicable  
3 provisions of the Florida Building Elevator Safety Code, as  
4 required by this chapter. Each such agreement shall include a  
5 provision that the municipality or county shall maintain for  
6 inspection by the division copies of all applications for  
7 permits issued, a copy of each inspection report issued, and  
8 proper records showing the number of certificates of operation  
9 issued; shall include a provision that each required  
10 inspection be conducted by the holder of a certificate of  
11 competency issued by the division; and may include such other  
12 provisions as the division deems necessary.

13 Section 12. Subsections (2) and (6) of section  
14 468.603, Florida Statutes, are amended, and subsection (8) is  
15 added to said section, to read:

16 468.603 Definitions.--As used in this part:

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

26 (6) "Categories of building code inspectors" include  
27 the following:

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

1 (b) "Coastal construction inspector" means a person  
2 who is qualified to inspect and determine that buildings and  
3 structures are constructed to resist near-hurricane and  
4 hurricane velocity winds in accordance with the provisions of  
5 the governing building code.

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

11 (d) "Residential electrical inspector" means a person  
12 who is qualified to inspect and determine the electrical  
13 safety of one and two family dwellings and accessory  
14 structures by inspecting for compliance with the applicable  
15 provisions of the governing electrical code.

16 (e) "Mechanical inspector" means a person who is  
17 qualified to inspect and determine that the mechanical  
18 installations and systems for buildings and structures are in  
19 compliance with the provisions of the governing mechanical  
20 code.

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

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

30 (h) "Electrical inspector" means a person who is  
31 qualified to inspect and determine the electrical safety of

1 commercial and residential buildings and accessory structures  
2 by inspecting for compliance with the provisions of the  
3 National Electrical Code.

4 (8) "Building code enforcement official" or  
5 "enforcement official" means a licensed building code  
6 administrator, building code inspector, or plans examiner.

7 Section 13. Subsections (2) and (6) of section  
8 468.603, Florida Statutes, are amended to read:

9 468.603 Definitions.--As used in this part:

10 (2) "Building code inspector" ~~or "inspector"~~ means any  
11 of those employees of local governments or state agencies with  
12 building construction regulation responsibilities who  
13 themselves conduct inspections of building construction,  
14 erection, repair, addition, or alteration projects that  
15 require permitting indicating compliance with building,  
16 plumbing, mechanical, electrical, gas, fire prevention,  
17 energy, accessibility, and other construction codes as  
18 required by state law or municipal or county ordinance.

19 (6) "Categories of building code inspectors" include  
20 the following:

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

25 (b) "Coastal construction inspector" means a person  
26 who is qualified to inspect and determine that buildings and  
27 structures are constructed to resist near-hurricane and  
28 hurricane velocity winds in accordance with the provisions of  
29 the governing building code.

30 (c) "Commercial electrical inspector" means a person  
31 who is qualified to inspect and determine the electrical

1 safety of commercial buildings and structures by inspecting  
2 for compliance with the provisions of the National Electrical  
3 Code.

4 (d) "Residential electrical inspector" means a person  
5 who is qualified to inspect and determine the electrical  
6 safety of one and two family dwellings and accessory  
7 structures by inspecting for compliance with the applicable  
8 provisions of the governing electrical code.

9 (e) "Mechanical inspector" means a person who is  
10 qualified to inspect and determine that the mechanical  
11 installations and systems for buildings and structures are in  
12 compliance with the provisions of the governing mechanical  
13 code.

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

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

23 (h) "Electrical inspector" means a person who is  
24 qualified to inspect and determine the electrical safety of  
25 commercial and residential buildings and accessory structures  
26 by inspecting for compliance with the provisions of the  
27 National Electrical Code.

28 Section 14. Section 468.604, Florida Statutes, is  
29 amended to read:  
30  
31

1           468.604 Responsibilities of building code  
2 administrators, plans examiners, and building code  
3 inspectors.--

4           (1) It is the responsibility of the building code  
5 administrator or building official to administrate, supervise,  
6 direct, enforce, or perform the permitting and inspection of  
7 construction, alteration, repair, remodeling, or demolition of  
8 structures and the installation of building systems within the  
9 boundaries of their governmental jurisdiction, when permitting  
10 is required, to ensure compliance with building, plumbing,  
11 mechanical, electrical, gas fuel, energy conservation,  
12 accessibility, and other construction codes which are required  
13 or adopted by municipal code, county ordinance, or state law.  
14 The building code administrator or building official shall  
15 faithfully perform these responsibilities without interference  
16 from any person. These responsibilities include:

17           (a) The review of construction plans to ensure  
18 compliance with all applicable codes. The construction plans  
19 must be reviewed before the issuance of any building, system  
20 installation, or other construction permit. The review of  
21 construction plans must be done by the building code  
22 administrator or building official or by a person having the  
23 appropriate plans examiner license issued under this chapter.

24           (b) The inspection of each phase of construction where  
25 a building or other construction permit has been issued. The  
26 building code administrator or building official, or a person  
27 having the appropriate building code inspector license issued  
28 under this chapter, shall inspect the construction or  
29 installation to ensure that the work is performed in  
30 accordance with applicable codes.

31



1           (2) It is the responsibility of the building code  
2 inspector to conduct inspections of construction, alteration,  
3 repair, remodeling, or demolition of structures and the  
4 installation of building systems, when permitting is required,  
5 to ensure compliance with building, plumbing, mechanical,  
6 electrical, gas fuel, energy conservation, accessibility, and  
7 other construction codes required by municipal code, county  
8 ordinance, or state law. Each building code inspector must be  
9 licensed in the appropriate category as defined in s. 468.603.  
10 The building code inspector's responsibilities must be  
11 performed under the direction of the building code  
12 administrator or building official without interference from  
13 any unlicensed person.

14           (3) It is the responsibility of the plans examiner to  
15 conduct review of construction plans submitted in the permit  
16 application to assure compliance with all applicable codes  
17 required by municipal code, county ordinance, or state law.  
18 The review of construction plans must be done by the building  
19 code administrator or building official or by a person  
20 licensed in the appropriate plans examiner category as defined  
21 in s. 468.603. The plans examiner's responsibilities must be  
22 performed under the supervision and authority of the building  
23 code administrator or building official without interference  
24 from any unlicensed person.

25           Section 15. Paragraph (c) of subsection (2) of section  
26 468.605, Florida Statutes, is amended to read:

27           468.605 Florida Building Code Administrators and  
28 Inspectors Board.--

29           (2) The board shall consist of nine members, as  
30 follows:

31           (c) Two members serving as building code inspectors.

1  
2 None of the board members described in paragraph (a) or  
3 paragraph (f) may be an employee of a municipal, county, or  
4 state governmental agency.

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

7 468.607 Certification of building code administration  
8 and inspection personnel.--The board shall issue a certificate  
9 to any individual whom the board determines to be qualified,  
10 within such class and level as provided in this part and with  
11 such limitations as the board may place upon it. No person  
12 may be employed by a state agency or local governmental  
13 authority to perform the duties of a building code  
14 administrator, plans examiner, or building code inspector  
15 after October 1, 1993, without possessing the proper valid  
16 certificate issued in accordance with the provisions of this  
17 part.

18 Section 17. Section 468.609, Florida Statutes, is  
19 amended to read:

20 468.609 Administration of this part; standards for  
21 certification; additional categories of certification.--

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

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

- 29 (a) Is at least 18 years of age;  
30 (b) Is of good moral character; and  
31

1 (c) Meets eligibility requirements according to one of  
2 the following criteria:

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

7 2. Demonstrates a combination of postsecondary  
8 education in the field of construction or a related field and  
9 experience which totals 4 years, with at least 1 year of such  
10 total being experience in construction, building code  
11 inspection, or plans review;

12 3. Demonstrates a combination of technical education  
13 in the field of construction or a related field and experience  
14 which totals 4 years, with at least 1 year of such total being  
15 experience in construction, building code inspection, or plans  
16 review; or

17 4. Currently holds a standard certificate as issued by  
18 the board and satisfactorily completes a building code ~~an~~  
19 inspector or plans examiner training program of not less than  
20 200 hours in the certification category sought. The board  
21 shall establish by rule criteria for the development and  
22 implementation of the training programs.

23 (d) Demonstrates successful completion of the core  
24 curriculum and specialized or advanced module coursework  
25 approved by the Florida Building Commission, as part of the  
26 Building Code Training Program established pursuant to s.  
27 553.841, appropriate to the licensing category sought or,  
28 pursuant to authorization by the certifying authority,  
29 provides proof of completion of such curriculum or coursework  
30 within 6 months after such certification.

31

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

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

5           (b) Is of good moral character; and

6           (c) Meets eligibility requirements according to one of  
7 the following criteria:

8           1. Demonstrates 10 years' combined experience as an  
9 architect, engineer, plans examiner, building code inspector,  
10 registered or certified contractor, or construction  
11 superintendent, with at least 5 years of such experience in  
12 supervisory positions; or

13           2. Demonstrates a combination of postsecondary  
14 education in the field of construction or related field, no  
15 more than 5 years of which may be applied, and experience as  
16 an architect, engineer, plans examiner, building code  
17 inspector, registered or certified contractor, or construction  
18 superintendent which totals 10 years, with at least 5 years of  
19 such total being experience in supervisory positions.

20           (d) Demonstrates successful completion of the core  
21 curriculum and specialized or advanced module coursework  
22 approved by the Florida Building Commission, as part of the  
23 Building Code Training Program established pursuant to s.  
24 553.841, appropriate to the licensing category sought or,  
25 pursuant to authorization by the certifying authority,  
26 provides proof of completion of such curriculum or coursework  
27 within 6 months after such certification.

28           (4) No person may engage in the duties of a building  
29 code administrator, plans examiner, or building code inspector  
30 pursuant to this part after October 1, 1993, unless such  
31 person possesses one of the following types of certificates,

1 currently valid, issued by the board attesting to the person's  
2 qualifications to hold such position:

3 (a) A standard certificate.

4 (b) A limited certificate.

5 (c) A provisional certificate.

6 (5)(a) To obtain a standard certificate, an individual  
7 must pass an examination approved by the board which  
8 demonstrates that the applicant has fundamental knowledge of  
9 the state laws and codes relating to the construction of  
10 buildings for which the applicant has building code  
11 administration, plans examination ~~examining~~, or building code  
12 inspection responsibilities. It is the intent of the  
13 Legislature that the examination approved for certification  
14 pursuant to this part be substantially equivalent to the  
15 examinations administered by the Southern Building Code  
16 Congress International, ~~the Building Officials Association of~~  
17 ~~Florida, the South Florida Building Code (Dade and Broward),~~  
18 and the Council of American Building Officials.

19 (b) A standard certificate shall be issued to each  
20 applicant who successfully completes the examination, which  
21 certificate authorizes the individual named thereon to  
22 practice throughout the state as a building code  
23 administrator, plans examiner, or building code inspector  
24 within such class and level as is specified by the board.

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

28 (6)(a) A building code administrator, plans examiner,  
29 or building code inspector holding office on July 1, 1993,  
30 shall not be required to possess a standard certificate as a  
31 condition of tenure or continued employment, but shall be

1 required to obtain a limited certificate as described in this  
2 subsection.

3 (b) By October 1, 1993, individuals who were employed  
4 on July 1, 1993, as building code administrators, plans  
5 examiners, or building code inspectors, who are not eligible  
6 for a standard certificate, but who wish to continue in such  
7 employment, shall submit to the board the appropriate  
8 application and certification fees and shall receive a limited  
9 certificate qualifying them to engage in building code  
10 administration, plans examination, or building code inspection  
11 in the class, at the performance level, and within the  
12 governmental jurisdiction in which such person is employed.

13 (c) The limited certificate shall be valid only as an  
14 authorization for the building code administrator, plans  
15 examiner, or building code inspector to continue in the  
16 position held, and to continue performing all functions  
17 assigned to that position, on July 1, 1993.

18 (d) A building code administrator, plans examiner, or  
19 building code inspector holding a limited certificate can be  
20 promoted to a position requiring a higher level certificate  
21 only upon issuance of a standard certificate or provisional  
22 certificate appropriate for such new position.

23 (7)(a) The board may provide for the issuance of  
24 provisional certificates valid for such period, not less than  
25 3 years ~~1 year~~ nor more than 5 ~~3~~ years, as specified by board  
26 rule, to any newly employed or promoted building code  
27 inspector or plans examiner who meets the eligibility  
28 requirements described in subsection (2) and any newly  
29 employed or promoted building code administrator who meets the  
30 eligibility requirements described in subsection (3)~~building~~  
31 ~~code administrator, plans examiner, or inspector.~~

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

4 (c) The board may provide for appropriate levels of  
5 provisional certificates and may issue these certificates with  
6 such special conditions or requirements relating to the place  
7 of employment of the person holding the certificate, the  
8 supervision of such person on a consulting or advisory basis,  
9 or other matters as the board may deem necessary to protect  
10 the public safety and health.

11 (d) A newly employed or hired person may perform the  
12 duties of a plans examiner or building code inspector for 90  
13 days if a provisional certificate application has been  
14 submitted, provided such person is under the direct  
15 supervision of a certified building code administrator who  
16 holds a standard certification and who has found such person  
17 qualified for a provisional certificate. However, direct  
18 supervision and the determination of qualifications under this  
19 paragraph may be provided by a building code administrator who  
20 holds a limited or provisional certificate in any county with  
21 a population of less than 75,000 and in any municipality  
22 located within such a county.

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

28 ~~(b) Any individual who holds a valid certificate~~  
29 ~~issued by the Southern Building Code Congress International,~~  
30 ~~the Building Officials Association of Florida, the South~~  
31 ~~Florida Building Code (Dade and Broward), or the Council of~~

1 ~~American Building Officials certification programs, or who has~~  
2 ~~been approved for certification under one of those programs~~  
3 ~~not later than October 1, 1995, shall be deemed to have~~  
4 ~~satisfied the requirements for receiving a standard~~  
5 ~~certificate in the corresponding category prescribed by this~~  
6 ~~part. Employees of counties with a population of less than~~  
7 ~~50,000, or employees of municipalities with a population of~~  
8 ~~less than 3,500, shall be deemed to have satisfied the~~  
9 ~~requirements for standard certification where such employee is~~  
10 ~~approved for certification under one of the programs set forth~~  
11 ~~in this paragraph not later than October 1, 1998.~~

12       ~~(8)(9)~~ Any individual applying to the board may be  
13 issued a certificate valid for multiple building code  
14 inspection classes, as deemed appropriate by the board.

15       ~~(9)(10)~~ Certification and training classes may be  
16 developed in coordination with degree career education  
17 centers, community colleges, the State University System, or  
18 other entities offering certification and training classes.

19       ~~(10)(11)~~ The board may by rule create categories of  
20 certification in addition to those defined in s. 468.603(6)  
21 and (7). Such certification categories shall not be mandatory  
22 and shall not act to diminish the scope of any certificate  
23 created by statute.

24       Section 18. Section 468.617, Florida Statutes, is  
25 amended to read:

26       468.617 Joint building code inspection department;  
27 other arrangements.--

28       (1) Nothing in this part shall prohibit any local  
29 jurisdiction from entering into and carrying out contracts  
30 with any other local jurisdiction under which the parties  
31 agree to create and support a joint building code inspection



1 department for conforming to the provisions of this part. In  
2 lieu of a joint building code inspection department, any local  
3 jurisdiction may designate a building code ~~an~~ inspector from  
4 another local jurisdiction to serve as a building code ~~an~~  
5 inspector for the purposes of this part.

6 (2) Nothing in this part shall prohibit local  
7 governments from contracting with persons certified pursuant  
8 to this part to perform building code inspections or plan  
9 reviews. An individual or entity may not inspect or examine  
10 plans on projects in which the individual or entity designed  
11 or permitted the projects.

12 (3) Nothing in this part shall prohibit any county or  
13 municipal government from entering into any contract with any  
14 person or entity for the provision of building code inspection  
15 services regulated under this part, and notwithstanding any  
16 other statutory provision, such county or municipal  
17 governments may enter into contracts.

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

20 468.619 Building code enforcement officials' bill of  
21 rights.--

22 (1) It is the finding of the Legislature that building  
23 code enforcement officials are employed by local jurisdictions  
24 to exercise police powers of the state in the course of their  
25 duties and are in that way similar to law enforcement  
26 personnel, correctional officers, and firefighters. It is the  
27 further finding of the Legislature that building code  
28 enforcement officials are thereby sufficiently distinguishable  
29 from other professionals regulated by the department so that  
30 their circumstances merit additional specific protections in

31

1 the course of disciplinary investigations and proceedings  
2 against their licenses.

3 (2) All enforcement officials licensed under this part  
4 shall have the rights and privileges specified in this  
5 section. Such rights are not exclusive to other rights, and an  
6 enforcement official does not forfeit any rights otherwise  
7 held under federal, state, or local law. In any instance of a  
8 conflict between a provision of this section and a provision  
9 of chapter 455, the provision of this section shall supersede  
10 the provision of chapter 455.

11 (3) Whenever an enforcement official is subjected to  
12 an investigative interview for possible disciplinary action by  
13 the department, such interview shall be conducted pursuant to  
14 the requirements of this subsection.

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

19 (b) An enforcement official may not be subjected to an  
20 interview without first receiving written notice of sufficient  
21 details of the complaint in order to be reasonably apprised of  
22 the nature of the investigation and of the substance of the  
23 allegations made. The enforcement official shall be informed  
24 prior to the interview whether the complaint originated from  
25 the department or from a consumer.

26 (c) At his or her request, an enforcement official  
27 under investigation shall have the right to be represented by  
28 counsel or by any other representative of his or her choice,  
29 who shall be present at such time as the enforcement official  
30 wishes during the interview.

31

1        (d) During the interview, the enforcement official may  
2 not be subjected to offensive language. No promise may be made  
3 or reward offered to the enforcement official as an inducement  
4 to answer any question.

5        (e) If requested by the enforcement official, the  
6 interview of an enforcement official, including notation of  
7 all recess periods, must be recorded on audio tape, or  
8 otherwise preserved in such a manner as to allow a transcript  
9 to be prepared, and there shall be no unrecorded questions or  
10 statements. Upon the request of the enforcement official, a  
11 copy of any such recording of the interview must be made  
12 available to the enforcement official no later than 72 hours  
13 following the interview, excluding holidays and weekends. The  
14 expense of the recording and transcript shall be borne by the  
15 enforcement official.

16        (f) If the testimony is transcribed, the transcript  
17 must be furnished to the enforcement official for examination,  
18 and shall be read to or by the enforcement official, unless  
19 waived by all parties involved. Any changes in form or  
20 substance that the enforcement official wants to make shall be  
21 listed in writing, with a statement of the reasons for making  
22 the changes. The changes shall be attached to the transcript.  
23 Any transcript of an interview with an enforcement official  
24 which is to be used in any proceeding against the enforcement  
25 official shall be sworn or affirmed to and acknowledged by the  
26 enforcement official.

27        (4) The investigation of a complaint against an  
28 enforcement official is subject to the time restrictions set  
29 forth in this subsection, and failure to comply with any time  
30 restriction set forth in this subsection shall result in  
31 dismissal of the complaint against the enforcement official.

1 An investigation of a complaint against an enforcement  
2 official that was dismissed for failure to comply with a time  
3 restriction set forth in this subsection may not be reopened.  
4 However, in any instance of an additional complaint being  
5 initiated, information or investigation related to the  
6 dismissed complaint may be used.

7 (a) The department must inform the enforcement  
8 official of any legally sufficient complaint received,  
9 including the substance of the allegation, within 10 days  
10 after receipt of the complaint by the department.

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

13 (c) No longer than 180 days from the date of the  
14 receipt of the complaint, the department shall submit the  
15 investigation, whether complete or not, to the probable cause  
16 panel for review. In the event the investigation is not  
17 complete, the probable cause panel shall review and instruct  
18 the department to complete the investigation within a time  
19 certain and, in no event, greater than ninety (90) days or  
20 dismiss the complaint with prejudice.

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

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

29 (7) If any action taken against the enforcement  
30 official by the department or the board is found to be without  
31 merit by a court of competent jurisdiction, or if judgment in

1 such an action is awarded to the enforcement official, the  
2 department or the board, or the assignee of the department or  
3 board, shall reimburse the enforcement official or his or her  
4 employer, as appropriate, for reasonable legal costs and  
5 reasonable attorney's fees incurred. The amount awarded shall  
6 not exceed the limit provided in s. 120.595.

7 (8) An enforcement official may bring civil suit  
8 against any person, group of persons, or organization or  
9 corporation, or the head of such organization or corporation,  
10 for damages, either pecuniary or otherwise, suffered pursuant  
11 to the performance of the enforcement official's duties or for  
12 abridgement of the enforcement official's civil rights arising  
13 out of the enforcement official's performance of official  
14 duties.

15 (9) Notwithstanding any other provision in law, while  
16 under investigation the enforcement official shall not be  
17 denied any and all the rights and privileges of a licensee in  
18 good standing.

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

21 468.621 Disciplinary proceedings.--

22 (3) Where a certificate is suspended, placed on  
23 probation, or has conditions imposed, the board shall  
24 reinstate the certificate of a disciplined building code  
25 administrator, plans examiner, or building code inspector upon  
26 proof the disciplined individual has complied with all terms  
27 and conditions set forth in the final order.

28 Section 21. Subsections (2), (3), and (4) of section  
29 468.627, Florida Statutes, are amended to read:

30 468.627 Application; examination; renewal; fees.--

31

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

4           (3) The initial examination fee may not exceed \$150  
5 for building code administrators, plans examiners, or building  
6 code inspectors.

7           (4) Employees of local government agencies having  
8 responsibility for building code inspection, building  
9 construction regulation, and enforcement of building,  
10 plumbing, mechanical, electrical, gas, fire prevention,  
11 energy, accessibility, and other construction codes shall pay  
12 no application fees or examination fees.

13           Section 22. Section 468.631, Florida Statutes, is  
14 amended to read:

15           468.631 Building Code Administrators and Inspectors  
16 Fund.--The provisions of this part shall be funded through a  
17 surcharge, to be assessed pursuant to s. 125.56(4) or s.  
18 166.201 at the rate of one-half cent per square foot of  
19 under-roof floor space permitted, including new construction,  
20 renovations, alterations, and additions. The unit of  
21 government responsible for collecting permit fees pursuant to  
22 s. 125.56(4) or s. 166.201 shall collect such surcharge and  
23 shall remit the funds to the department on a quarterly  
24 calendar basis beginning not later than December 31, 1993, for  
25 the preceding quarter, and continuing each third month  
26 thereafter; and such unit of government may retain an amount  
27 up to 10 percent of the surcharge collected to fund projects  
28 and activities intended to improve the quality of building  
29 code enforcement. There is created within the Professional  
30 Regulation Trust Fund a separate account to be known as the  
31 Building Code Administrators and Inspectors Fund, which shall

1 deposit and disburse funds as necessary for the implementation  
2 of this part. The department shall annually establish the  
3 amount needed to fund the certification and regulation of  
4 building code administrators, plans examiners, and building  
5 code inspectors. Any funds collected in excess of the amount  
6 needed to adequately fund the certification and regulation of  
7 building code administrators, plans examiners, and building  
8 code inspectors shall be deposited into the Construction  
9 Industries Recovery Fund established by s. 489.140. If the  
10 Construction Industries Recovery Fund is fully funded as  
11 provided by s. 489.140, any remaining funds shall be  
12 distributed to the Construction Industry Licensing Board for  
13 use in the regulation of certified and registered contractors.

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

16 468.633 Authority of local government.--

17 (1) Nothing in this part may be construed to restrict  
18 the authority of local governments to require as a condition  
19 of employment that building code administrators, plans  
20 examiners, and building code inspectors possess qualifications  
21 beyond the requirements for certification contained in this  
22 part.

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

25 112.3145 Disclosure of financial interests and clients  
26 represented before agencies.--

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

29 (a) "Local officer" means:

30 1. Every person who is elected to office in any  
31 political subdivision of the state, and every person who is

1 appointed to fill a vacancy for an unexpired term in such an  
2 elective office.

3           2. Any appointed member of a board; commission;  
4 authority, including any expressway authority or  
5 transportation authority established by general law; community  
6 college district board of trustees; or council of any  
7 political subdivision of the state, excluding any member of an  
8 advisory body. A governmental body with land-planning, zoning,  
9 or natural resources responsibilities shall not be considered  
10 an advisory body.

11           3. Any person holding one or more of the following  
12 positions: mayor; county or city manager; chief administrative  
13 employee of a county, municipality, or other political  
14 subdivision; county or municipal attorney; chief county or  
15 municipal building code inspector; county or municipal water  
16 resources coordinator; county or municipal pollution control  
17 director; county or municipal environmental control director;  
18 county or municipal administrator, with power to grant or deny  
19 a land development permit; chief of police; fire chief;  
20 municipal clerk; district school superintendent; community  
21 college president; district medical examiner; or purchasing  
22 agent having the authority to make any purchase exceeding the  
23 threshold amount provided for in s. 287.017 for CATEGORY ONE,  
24 on behalf of any political subdivision of the state or any  
25 entity thereof.

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

28           125.56 Adoption or amendment of building code;  
29 inspection fees; inspectors; etc.--

30           (3) The board of county commissioners of each of the  
31 several counties may employ a building code inspector and such



1 other personnel as it deems necessary to carry out the  
2 provisions of this act and may pay reasonable salaries for  
3 such services.

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

6 212.08 Sales, rental, use, consumption, distribution,  
7 and storage tax; specified exemptions.--The sale at retail,  
8 the rental, the use, the consumption, the distribution, and  
9 the storage to be used or consumed in this state of the  
10 following are hereby specifically exempt from the tax imposed  
11 by this chapter.

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

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

15 1. Beginning July 1, 1995, building materials used in  
16 the rehabilitation of real property located in an enterprise  
17 zone shall be exempt from the tax imposed by this chapter upon  
18 an affirmative showing to the satisfaction of the department  
19 that the items have been used for the rehabilitation of real  
20 property located in an enterprise zone. Except as provided in  
21 subparagraph 2., this exemption inures to the owner, lessee,  
22 or lessor of the rehabilitated real property located in an  
23 enterprise zone only through a refund of previously paid  
24 taxes. To receive a refund pursuant to this paragraph, the  
25 owner, lessee, or lessor of the rehabilitated real property  
26 located in an enterprise zone must file an application under  
27 oath with the governing body or enterprise zone development  
28 agency having jurisdiction over the enterprise zone where the  
29 business is located, as applicable, which includes:

30 a. The name and address of the person claiming the  
31 refund.

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

4           c. A description of the improvements made to  
5 accomplish the rehabilitation of the real property.

6           d. A copy of the building permit issued for the  
7 rehabilitation of the real property.

8           e. A sworn statement, under the penalty of perjury,  
9 from the general contractor licensed in this state with whom  
10 the applicant contracted to make the improvements necessary to  
11 accomplish the rehabilitation of the real property, which  
12 statement lists the building materials used in the  
13 rehabilitation of the real property, the actual cost of the  
14 building materials, and the amount of sales tax paid in this  
15 state on the building materials. In the event that a general  
16 contractor has not been used, the applicant shall provide this  
17 information in a sworn statement, under the penalty of  
18 perjury. Copies of the invoices which evidence the purchase of  
19 the building materials used in such rehabilitation and the  
20 payment of sales tax on the building materials shall be  
21 attached to the sworn statement provided by the general  
22 contractor or by the applicant. Unless the actual cost of  
23 building materials used in the rehabilitation of real property  
24 and the payment of sales taxes due thereon is documented by a  
25 general contractor or by the applicant in this manner, the  
26 cost of such building materials shall be an amount equal to 40  
27 percent of the increase in assessed value for ad valorem tax  
28 purposes.

29           f. The identifying number assigned pursuant to s.  
30 290.0065 to the enterprise zone in which the rehabilitated  
31 real property is located.

1 g. A certification by the local building code  
2 inspector that the improvements necessary to accomplish the  
3 rehabilitation of the real property are substantially  
4 completed.

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

7 i. If applicable, the name and address of each  
8 permanent employee of the business, including, for each  
9 employee who is a resident of an enterprise zone, the  
10 identifying number assigned pursuant to s. 290.0065 to the  
11 enterprise zone in which the employee resides.

12 2. This exemption inures to a city, county, or other  
13 governmental agency through a refund of previously paid taxes  
14 if the building materials used in the rehabilitation of real  
15 property located in an enterprise zone are paid for from the  
16 funds of a community development block grant or similar grant  
17 or loan program. To receive a refund pursuant to this  
18 paragraph, a city, county, or other governmental agency must  
19 file an application which includes the same information  
20 required to be provided in subparagraph 1. by an owner,  
21 lessee, or lessor of rehabilitated real property. In addition,  
22 the application must include a sworn statement signed by the  
23 chief executive officer of the city, county, or other  
24 governmental agency seeking a refund which states that the  
25 building materials for which a refund is sought were paid for  
26 from the funds of a community development block grant or  
27 similar grant or loan program.

28 3. Within 10 working days after receipt of an  
29 application, the governing body or enterprise zone development  
30 agency shall review the application to determine if it  
31 contains all the information required pursuant to subparagraph

1 1. or subparagraph 2. and meets the criteria set out in this  
 2 paragraph. The governing body or agency shall certify all  
 3 applications that contain the information required pursuant to  
 4 subparagraph 1. or subparagraph 2. and meet the criteria set  
 5 out in this paragraph as eligible to receive a refund. If  
 6 applicable, the governing body or agency shall also certify if  
 7 20 percent of the employees of the business are residents of  
 8 an enterprise zone, excluding temporary and part-time  
 9 employees. The certification shall be in writing, and a copy  
 10 of the certification shall be transmitted to the executive  
 11 director of the Department of Revenue. The applicant shall be  
 12 responsible for forwarding a certified application to the  
 13 department within the time specified in subparagraph 4.

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

18 5. The provisions of s. 212.095 do not apply to any  
 19 refund application made pursuant to this paragraph. No more  
 20 than one exemption through a refund of previously paid taxes  
 21 for the rehabilitation of real property shall be permitted for  
 22 any one parcel of real property. No refund shall be granted  
 23 pursuant to this paragraph unless the amount to be refunded  
 24 exceeds \$500. No refund granted pursuant to this paragraph  
 25 shall exceed the lesser of 97 percent of the Florida sales or  
 26 use tax paid on the cost of the building materials used in the  
 27 rehabilitation of the real property as determined pursuant to  
 28 sub-subparagraph 1.e. or \$5,000, or, if no less than 20  
 29 percent of the employees of the business are residents of an  
 30 enterprise zone, excluding temporary and part-time employees,  
 31 the amount of refund granted pursuant to this paragraph shall

1 not exceed the lesser of 97 percent of the sales tax paid on  
2 the cost of such building materials or \$10,000. A refund  
3 approved pursuant to this paragraph shall be made within 30  
4 days of formal approval by the department of the application  
5 for the refund.

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

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

17           8. For the purposes of the exemption provided in this  
18 paragraph:

19           a. "Building materials" means tangible personal  
20 property which becomes a component part of improvements to  
21 real property.

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

24           c. "Rehabilitation of real property" means the  
25 reconstruction, renovation, restoration, rehabilitation,  
26 construction, or expansion of improvements to real property.

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

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

31

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

3           252.924 Party state responsibilities.--

4           (2) The authorized representative of a party state may  
5 request assistance of another party state by contacting the  
6 authorizing representative of that state. The provisions of  
7 this agreement shall only apply to requests for assistance  
8 made by and to authorized representatives. Requests may be  
9 verbal or in writing. If verbal, the request shall be  
10 confirmed in writing within 90 days of the verbal request.  
11 Requests shall provide the following information:

12           (a) A description of the emergency service function  
13 for which assistance is needed, such as, but not limited to,  
14 fire services, law enforcement, emergency medical,  
15 transportation, communications, public works and engineering,  
16 building code inspection, planning and information assistance,  
17 mass care, resource support, health and medical services, and  
18 search and rescue.

19           Section 28. Paragraph (j) of subsection (3) of section  
20 404.056, Florida Statutes, is amended to read:

21           404.056 Environmental radiation standards and  
22 programs; radon protection.--

23           (3) CERTIFICATION.--

24           (j) The department may set criteria and requirements  
25 for the application, certification, and annual renewal of  
26 certification for radon measurement and mitigation businesses,  
27 which may include:

28           1. Requirements for measurement devices and  
29 measurement procedures, including the disclosure of mitigation  
30 materials, systems, and other mitigation services offered.

31

1           2. The identification of certified specialists and  
2 technicians employed by the business and requirements for  
3 specialist staffing and duties.

4           3. The analysis of measurement devices by proficient  
5 analytical service providers.

6           4. Requirements for a quality assurance and quality  
7 control program.

8           5. The disclosure of client measurement reporting  
9 forms and warranties and operating instructions for mitigation  
10 systems.

11          6. Requirements for radon services publications and  
12 the identification of the radon business certification number  
13 in advertisements.

14          7. Requirements for a worker health and safety  
15 program.

16          8. Requirements for maintaining radon records.

17          9. The operation of branch office locations.

18          10. Requirements for supervising subcontractors who  
19 install mitigation systems.

20          11. Requirements for building code inspections and  
21 evaluation and standards for the design and installation of  
22 mitigation systems.

23          12. Prescribing conditions of mitigation measurements.

24          Section 29. Section 471.045, Florida Statutes, is  
25 amended to read:

26           471.045 Professional engineers performing building  
27 code inspector duties.--Notwithstanding any other provision of  
28 law, a person who is currently licensed under this chapter to  
29 practice as a professional engineer may provide building code  
30 inspection services described in s. 468.603(6) and (7) to a  
31 local government or state agency upon its request, without

1 being certified by the Florida Building Code Administrators  
 2 and Inspectors Board under part XII of chapter 468. When  
 3 performing these building code inspection services, the  
 4 professional engineer is subject to the disciplinary  
 5 guidelines of this chapter and s. 468.621(1)(c)-(h). Any  
 6 complaint processing, investigation, and discipline that arise  
 7 out of a professional engineer's performing building code  
 8 inspection services shall be conducted by the Board of  
 9 Professional Engineers rather than the Florida Building Code  
 10 Administrators and Inspectors Board. A professional engineer  
 11 may not perform plans review as an employee of a local  
 12 government upon any job that the professional engineer or the  
 13 professional engineer's company designed.

14 Section 30. Section 481.222, Florida Statutes, is  
 15 amended to read:

16 481.222 Architects performing building code inspector  
 17 duties.--Notwithstanding any other provision of law, a person  
 18 who is currently licensed to practice as an architect under  
 19 this part may provide building code inspection services  
 20 described in s. 468.603(6) and (7) to a local government or  
 21 state agency upon its request, without being certified by the  
 22 Florida Building Code Administrators and Inspectors Board  
 23 under part XII of chapter 468. With respect to the performance  
 24 of such building code inspection services, the architect is  
 25 subject to the disciplinary guidelines of this part and s.  
 26 468.621(1)(c)-(h). Any complaint processing, investigation,  
 27 and discipline that arise out of an architect's performance of  
 28 building code inspection services shall be conducted by the  
 29 Board of Architecture and Interior Design rather than the  
 30 Florida Building Code Administrators and Inspectors Board. An  
 31 architect may not perform plans review as an employee of a



1 local government upon any job that the architect or the  
2 architect's company designed.

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

5 489.103 Exemptions.--This part does not apply to:

6 (18) Any one-family, two-family, or three-family  
7 residence constructed by Habitat for Humanity International,  
8 Inc., or its local affiliates. Habitat for Humanity  
9 International, Inc., or its local affiliates, must:

10 (b) Obtain all required building code inspections.

11 Section 32. Section 725.06, Florida Statutes, is  
12 amended to read:

13 725.06 Construction contracts; limitation on  
14 indemnification.

15 (1) A construction contract may require a party to  
16 that contract to indemnify and hold harmless the other party  
17 to the contract, their officers and employees, from  
18 liabilities, damages, losses and costs, including, but not  
19 limited to reasonable attorney's fees, to the extent caused by  
20 the negligence, recklessness or intentional wrongful  
21 misconduct of the indemnifying party and persons employed or  
22 utilized by the indemnifying party in the performance of the  
23 construction contract.

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

30 ~~Any portion of any agreement or contract for, or in~~  
31 ~~connection with, any construction, alteration, repair, or~~

1 ~~demolition of a building, structure, appurtenance, or~~  
2 ~~appliance, including moving and excavating connected with it,~~  
3 ~~or any guarantee of, or in connection with, any of them,~~  
4 ~~between an owner of real property and an architect, engineer,~~  
5 ~~general contractor, subcontractor, sub-subcontractor, or~~  
6 ~~materialman, or between any combination thereof, wherein any~~  
7 ~~party referred to herein obtains indemnification from~~  
8 ~~liability for damages to persons or property caused in whole~~  
9 ~~or in part by any act, omission, or default of that party~~  
10 ~~arising from the contract or its performance shall be void and~~  
11 ~~unenforceable unless:~~

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

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

20         Section 33. Subsections (1) and (3) of section  
21 471.025, Florida Statutes, are amended to read:

22         471.025 Seals.--

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

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

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

15 Section 34. Section 489.13, Florida Statutes, is  
16 amended to read:

17 489.13 Unlicensed contracting; notice of  
18 noncompliance; fine; authority to issue or receive a building  
19 permit; web page.--

20 (1) Any person performing an activity requiring  
21 licensure under this part as a construction contractor is  
22 guilty of unlicensed contracting if he or she does not hold a  
23 valid active certificate or registration authorizing him or  
24 her to perform such activity, regardless of whether he or she  
25 holds a local construction contractor license or local  
26 certificate of competency. Persons working outside the  
27 geographical scope of their registration are guilty of  
28 unlicensed activity for purposes of this part.

29 (2) For a first offense, any person who holds a state  
30 or local construction license and is found guilty of  
31

1 unlicensed contracting under this section shall be issued a  
2 notice of noncompliance pursuant to s. 489.131(7).

3 (3) Notwithstanding s. 455.228, the department may  
4 impose an administrative fine of up to \$10,000 on any  
5 unlicensed person guilty of unlicensed contracting. In  
6 addition, the department may assess reasonable investigative  
7 and legal costs for prosecution of the violation against the  
8 unlicensed contractor. The department may waive up to one-half  
9 of any fine imposed if the unlicensed contractor complies with  
10 certification or registration within 1 year after imposition  
11 of the fine under this subsection.

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

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

19 (c) The balance of any fines collected under this  
20 section shall be used to maintain the department's unlicensed  
21 contractor website page, as specified in subsection (6), and  
22 to fund the Construction Industries Recovery Fund. Nothing in  
23 this paragraph shall be construed to permit recovery from the  
24 Construction Industries Recovery Fund if the contractor is  
25 unlicensed.

26 (5)(2) A local building department shall not issue a  
27 building permit to any contractor, or to any person  
28 representing himself or herself as a contractor, who does not  
29 hold a valid active certificate or registration in the  
30 appropriate category. Possession of a local certificate of  
31 competency or local construction license is not sufficient to

1 lawfully obtain a building permit as a construction contractor  
2 if the activity in question requires licensure under this  
3 part. Nothing in this section shall be construed as  
4 prohibiting a local building department from issuing a  
5 building permit to a locally licensed or certified contractor  
6 for an activity that does not require licensure under this  
7 part.

8 (6) The department shall create a web page, accessible  
9 through its Internet website, dedicated solely to listing any  
10 known information on unlicensed contractors. The information  
11 shall be provided in such a way that any person with computer  
12 on-line capabilities can access information on unlicensed  
13 contractors by name or by county. The department shall  
14 recognize that persons found guilty of unlicensed contracting  
15 do not have the same rights and privileges as licensees, and  
16 the department shall not restrict the quality or quantity of  
17 information on the web page required by this subsection,  
18 unless otherwise required by law.

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

25 Section 35. Paragraphs (j), (k), and (l) of subsection  
26 (3) of section 489.105, Florida Statutes, are amended to read:

27 489.105 Definitions.--As used in this part:

28 (3) "Contractor" means the person who is qualified  
29 for, and shall only be responsible for, the project contracted  
30 for and means, except as exempted in this part, the person  
31 who, for compensation, undertakes to, submits a bid to, or

1 does himself or herself or by others construct, repair, alter,  
2 remodel, add to, demolish, subtract from, or improve any  
3 building or structure, including related improvements to real  
4 estate, for others or for resale to others; and whose job  
5 scope is substantially similar to the job scope described in  
6 one of the subsequent paragraphs of this subsection. For the  
7 purposes of regulation under this part, "demolish" applies  
8 only to demolition of steel tanks over 50 feet in height;  
9 towers over 50 feet in height; other structures over 50 feet  
10 in height, other than buildings or residences over three  
11 stories tall; and buildings or residences over three stories  
12 tall. Contractors are subdivided into two divisions, Division  
13 I, consisting of those contractors defined in paragraphs  
14 (a)-(c), and Division II, consisting of those contractors  
15 defined in paragraphs (d)-(q):

16 (j) "Commercial pool/spa contractor" means a  
17 contractor whose scope of work involves, but is not limited  
18 to, the construction, repair, and servicing of any swimming  
19 pool, or hot tub or spa, whether public, private, or  
20 otherwise, regardless of use. The scope of work includes,  
21 ~~including the installation, repair, or replacement of existing~~  
22 ~~equipment, any cleaning or equipment sanitizing which requires~~  
23 at least a partial disassembling, excluding filter changes,  
24 and or the installation of new pool/spa equipment, interior  
25 finishes, the installation of package pool heaters, the  
26 installation of all perimeter piping and filter piping, and  
27 the construction of equipment rooms or housing for pool/spa  
28 equipment, as necessary. ~~The scope of such work includes~~  
29 ~~layout, excavation, operation of construction pumps for~~  
30 ~~dewatering purposes, steelwork, installation of light niches,~~  
31 ~~construction of floors, guniting, fibreglassing, installation~~

1 ~~of tile and coping, installation of all perimeter and filter~~  
2 ~~pipng, installation of all filter equipment and chemical~~  
3 ~~feeders of any type, plastering of the interior, construction~~  
4 ~~of decks, construction of equipment rooms or housing for pool~~  
5 ~~equipment, and installation of package pool heaters~~ and also  
6 includes the scope of work of a swimming pool/spa servicing  
7 contractor. ~~However,~~The scope of such work does not include  
8 direct connections to a sanitary sewer system or to potable  
9 water lines. The installation, construction, modification, or  
10 replacement of equipment permanently attached to and  
11 associated with the pool or spa for the purpose of water  
12 treatment or cleaning of the pool or spa requires licensure;  
13 however, the usage of such equipment for the purposes of water  
14 treatment or cleaning shall not require licensure unless the  
15 usage involves construction, modification, or replacement of  
16 such equipment. Water treatment that does not require such  
17 equipment does not require a license. In addition, a license  
18 shall not be required for the cleaning of the pool or spa in  
19 any way that does not affect the structural integrity of the  
20 pool or spa or its associated equipment.

21 (k) "Residential pool/spa contractor" means a  
22 contractor whose scope of work involves, but is not limited  
23 to, the construction, repair, and servicing of any residential  
24 swimming pool, or hot tub or spa, regardless of use. The scope  
25 of work includes, including the installation, repair, or  
26 replacement of existing equipment, any cleaning or equipment  
27 sanitizing which requires at least a partial disassembling,  
28 excluding filter changes, and or the installation of new  
29 pool/spa equipment, interior finishes, the installation of  
30 package pool heaters, the installation of all perimeter piping  
31 and filter piping, and the construction of equipment rooms or

1 ~~housing for pool/spa equipment, as necessary. The scope of~~  
 2 ~~such work includes layout, excavation, operation of~~  
 3 ~~construction pumps for dewatering purposes, steelwork,~~  
 4 ~~installation of light niches, construction of floors,~~  
 5 ~~guniting, fibreglassing, installation of tile and coping,~~  
 6 ~~installation of all perimeter and filter piping, installation~~  
 7 ~~of all filter equipment and chemical feeders of any type,~~  
 8 ~~plastering of the interior, construction of decks,~~  
 9 ~~installation of housing for pool equipment, and installation~~  
 10 of package pool heaters and also includes the scope of work of  
 11 a swimming pool/spa servicing contractor. ~~However,~~The scope  
 12 of such work does not include direct connections to a sanitary  
 13 sewer system or to potable water lines. The installation,  
 14 construction, modification, or replacement of equipment  
 15 permanently attached to and associated with the pool or spa  
 16 for the purpose of water treatment or cleaning of the pool or  
 17 spa requires licensure; however, the usage of such equipment  
 18 for the purposes of water treatment or cleaning shall not  
 19 require licensure unless the usage involves construction,  
 20 modification, or replacement of such equipment. Water  
 21 treatment that does not require such equipment does not  
 22 require a license. In addition, a license shall not be  
 23 required for the cleaning of the pool or spa in any way that  
 24 does not affect the structural integrity of the pool or spa or  
 25 its associated equipment.

26 (1) "Swimming pool/spa servicing contractor" means a  
 27 contractor whose scope of work involves, but is not limited  
 28 to, the repair and the servicing and repair of any swimming  
 29 pool, or hot tub or spa, whether public or private, or  
 30 otherwise, regardless of use. The scope of ~~such work includes~~  
 31 the repair or ~~may include any necessary piping and repairs,~~



1 replacement ~~and repair~~ of existing equipment, any cleaning or  
 2 equipment sanitizing which requires at least a partial  
 3 disassembling, excluding filter changes, and the ~~or~~  
 4 installation of new pool/spa ~~additional~~ equipment, interior  
 5 refinishing, the reinstallation or addition of pool heaters,  
 6 the ~~as necessary. The scope of such work includes the~~  
 7 ~~reinstallation of tile and coping, repair~~ or ~~and~~ replacement  
 8 of all perimeter piping and filter piping, the repair of  
 9 equipment rooms or housing for pool/spa equipment, and the  
 10 substantial or complete draining of a swimming pool, or hot  
 11 tub or spa, for the purpose of any repair or renovation. The  
 12 scope of such work does not include direct connections to a  
 13 sanitary sewer system or to potable water lines ~~filter~~  
 14 ~~equipment, and chemical feeders of any type, replastering,~~  
 15 ~~reconstruction of decks, and reinstallation or addition of~~  
 16 ~~pool heaters.~~ The installation, construction, modification,  
 17 substantial or complete disassembly, or replacement of  
 18 equipment permanently attached to and associated with the pool  
 19 or spa for the purpose of water treatment or cleaning of the  
 20 pool or spa requires licensure; however, the usage of such  
 21 equipment for the purposes of water treatment or cleaning  
 22 shall not require licensure unless the usage involves  
 23 construction, modification, substantial or complete  
 24 disassembly, or replacement of such equipment. Water treatment  
 25 that does not require such equipment does not require a  
 26 license. In addition, a license shall not be required for the  
 27 cleaning of the pool or spa in any way that does not affect  
 28 the structural integrity of the pool or spa or its associated  
 29 equipment.

30 Section 36. Section 489.118, Florida Statutes, is  
 31 amended to read:

1           489.118 Certification of registered contractors;  
2 grandfathering provisions.--The board shall, upon receipt of a  
3 completed application and appropriate fee, issue a certificate  
4 in the appropriate category to any contractor registered under  
5 this part who makes application to the board and can show that  
6 he or she meets each of the following requirements:

7           (1) Currently holds a valid registered local license  
8 in one of the contractor categories defined in s.  
9 489.105(3)(a)-(p).

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

22           (3) Has at least 5 years of experience as a contractor  
23 in that contracting category, or as an inspector or building  
24 administrator with oversight over that category, at the time  
25 of application. For contractors, only time periods in which  
26 the contractor license is active and the contractor is not on  
27 probation shall count toward the 5 years required by this  
28 subsection.

29           (4) Has not had his or her contractor's license  
30 revoked at any time, had his or her contractor's license  
31

1 suspended within the last 5 years, or been assessed a fine in  
2 excess of \$500 within the last 5 years.

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

5  
6 Applicants wishing to obtain a certificate pursuant to this  
7 section must make application by November 1, 2004.

8 Section 37. Section 489.128, Florida Statutes, is  
9 amended to read:

10 489.128 Contracts performed by unlicensed contractors  
11 unenforceable.--As a matter of public policy, contracts  
12 entered into on or after October 1, 1990, and performed in  
13 full or in part by any contractor who fails to obtain or  
14 maintain a license in accordance with this part shall be  
15 unenforceable in law or in equity. ~~However, in the event the~~  
16 ~~contractor obtains or reinstates his or her license, the~~  
17 ~~provisions of this section shall no longer apply.~~

18 Section 38. Subsections (12) and (15) of section  
19 489.503, Florida Statutes, are amended to read:

20 489.503 Exemptions.--This part does not apply to:

21 (12) Any person as defined and licensed under chapter  
22 527 while engaged in work regulated under that chapter.

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

27 (a) Is an employee of, or a volunteer supervised by an  
28 employee of, a health care facility licensed by the Agency for  
29 Health Care Administration;

30 (b) Performs services for the Department of Elderly  
31 Affairs;

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

3 (d) Is an employee of or an authorized representative  
4 or distributor for the producer of the personal emergency  
5 response system being monitored.

6 Section 39. Subsection (26) of section 489.505,  
7 Florida Statutes, is amended to read:

8 489.505 Definitions.--As used in this part:

9 (26) "Personal emergency response system" means any  
10 device which is simply plugged into a telephone jack or  
11 electrical receptacle and which is designed to initiate a  
12 telephone call to a person who responds to, or has a  
13 responsibility to determine the proper response to, personal  
14 emergencies, but does not include hard-wired or wireless alarm  
15 systems designed to detect intrusion or fire.

16 Section 40. Section 489.507, Florida Statutes, is  
17 amended to read:

18 489.507 Electrical Contractors' Licensing Board.--

19 (1) There is created in the department the Electrical  
20 Contractors' Licensing Board. The board shall consist of 11  
21 members, 7 of whom shall be certified electrical contractors,  
22 2 of whom shall be consumer members who are not, and have  
23 never been, electrical contractors or members of any closely  
24 related profession or occupation, and 2 of whom shall be  
25 certified alarm system contractors I. Members shall be  
26 appointed for 4-year terms.

27 (2) To be eligible to serve, each contractor member  
28 must have been certified by the board to operate as a  
29 contractor in the category with respect to which the member is  
30 appointed, be actively engaged in the construction business,  
31 and have been so engaged for a period of not less than 5

1 consecutive years before the date of appointment. Each  
2 appointee must be a citizen and resident of the state.

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

6 (4) It is the intent of the Legislature that the board  
7 promulgate no rules and take no action to require that  
8 applicants for certification as alarm system contractors serve  
9 any type of apprenticeship before being allowed to sit for the  
10 certification examination.

11 (5) Any proposed board rule which has not been  
12 modified to remove proposed committee objections of the  
13 Administrative Procedures Committee must receive approval from  
14 the department prior to filing the rule with the Department of  
15 State for final adoption. The department may repeal any rule  
16 enacted by the board which has taken effect without having met  
17 proposed committee objections of the Administrative Procedures  
18 Committee.

19 (6)(5) The Electrical Contractors' Licensing Board and  
20 the Construction Industry Licensing Board shall each appoint a  
21 committee to meet jointly at least twice a year.

22 Section 41. Section 489.514, Florida Statutes, is  
23 amended to read:

24 489.514 Certification for registered contractors;  
25 grandfathering provisions.--

26 (1) The board shall, upon receipt of a completed  
27 application, and appropriate fee, and proof of compliance with  
28 the provisions of this section, issue: a certification in the  
29 appropriate category to

1        (a) To an applying registered electrical contractor a  
2 certificate as an electrical contractor, as defined in s.  
3 489.505(12); or

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

7        (c) To an applying registered electrical speciality  
8 contractor a certificate in the matching electrical speciality  
9 contractor category, as defined in s. 489.505(19).

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

14        (a)(1) Currently holds a valid registered local  
15 license in the category of electrical contractor, or alarm  
16 system contractor, or electrical speciality contractor.

17        (b)(2)Has, for that category, passed a written,  
18 proctored examination that the board finds to be substantially  
19 similar to the examination required to be licensed as a  
20 certified contractor under this part. For purposes of this  
21 subsection, a written, proctored examination such as that  
22 produced by the National Assessment Institute, Block and  
23 Associates, ~~or~~ NAI/Block, Experior Assessments, Professional  
24 Testing, Inc., or Assessment Systems, Inc., shall be  
25 considered to be substantially similar to the examination  
26 required to be licensed as a certified contractor. The board  
27 may not impose or make any requirements regarding the nature  
28 or content of these cited examinations.

29        (c)(3) Has at least 5 years of experience as a  
30 contractor in that contracting category, or as a inspector or  
31 building administrator with oversight over that category, at

1 the time of application. For contractors, only time periods in  
2 which the contractor license is active and the contractor is  
3 not on probation shall count toward the 5 years required under  
4 this subsection.

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

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

11 (3) An applicant must make application by November 1,  
12 2004, to be licensed pursuant to this section.

13 Section 42. Paragraph (e) is added to subsection (2)  
14 of section 489.5185, Florida Statutes, to read:

15 489.5185 Fire alarm system agents.--

16 (2)

17 (e) Persons who perform only monitoring are not  
18 required to complete the training required for fire alarm  
19 system agents.

20 Section 43. Subsection (1) of section 489.522, Florida  
21 Statutes, is amended to read:

22 489.522 Qualifying agents; responsibilities.--

23 (1)(a) A qualifying agent is a primary qualifying  
24 agent unless he or she is a secondary qualifying agent under  
25 this section. All primary qualifying agents for a business  
26 organization are jointly and equally responsible for  
27 supervision of all operations of the business organization;  
28 for all field work at all sites; and for financial matters,  
29 both for the organization in general and for each specific  
30 job.

1           (b) When a qualifying agent ceases to qualify a  
2 business, the qualifying agent must transfer the license to  
3 another business, qualify himself or herself as an individual,  
4 or place the license in an inactive status within 60 days  
5 after termination of the qualifying status with the business.

6           Section 44. Subsection (5) of section 489.531, Florida  
7 Statutes, is renumbered as subsection (6) and amended, present  
8 subsections (3), (4), (6), and (7) are renumbered as  
9 subsections (4), (5), (7), and (8), respectively, and a new  
10 subsection (3) is added to said section, to read:

11           489.531 Prohibitions; penalties.--

12           (1) A person may not:

13           (a) Practice contracting unless the person is  
14 certified or registered;

15           (b) Use the name or title "electrical contractor" or  
16 "alarm system contractor" or words to that effect, or  
17 advertise himself or herself or a business organization as  
18 available to practice electrical or alarm system contracting,  
19 when the person is not then the holder of a valid  
20 certification or registration issued pursuant to this part;

21           (c) Present as his or her own the certificate or  
22 registration of another;

23           (d) Use or attempt to use a certificate or  
24 registration that has been suspended, revoked, or placed on  
25 inactive or delinquent status;

26           (e) Employ persons who are not certified or registered  
27 to practice contracting;

28           (f) Knowingly give false or forged evidence to the  
29 department, the board, or a member thereof;

30           (g) Operate a business organization engaged in  
31 contracting after 60 days following the termination of its



1 only qualifying agent without designating another primary  
2 qualifying agent;

3 (h) Conceal information relative to violations of this  
4 part;

5 (i) Commence or perform work for which a building  
6 permit is required pursuant to part VII of chapter 533 without  
7 the building permit being in effect; or

8 (j) Willfully or deliberately disregard or violate any  
9 municipal or county ordinance relating to uncertified or  
10 unregistered contractors.

11 (3)(a) Any unlicensed person who violates any of the  
12 provisions of subsection (1) commits a misdemeanor of the  
13 first degree, punishable as provided in s. 775.082 or s.  
14 775.083.

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

19 (c) Any unlicensed person who commits a violation of  
20 subsection (1) during the existence of a state of emergency  
21 declared by executive order of the Governor commits a felony  
22 of the third degree, punishable as provided in s. 775.082 or  
23 s. 775.083.

24  
25 The remedies set forth in this subsection are not exclusive  
26 and may be imposed in addition to the remedies set forth in s.  
27 489.533(2).

28 (6)(5)(a) The local governing body of a county or  
29 municipality, or its local enforcement body, is authorized to  
30 enforce the provisions of this part as well as its local  
31 ordinances against ~~locally licensed or~~ registered contractors,

1 as appropriate. The local jurisdiction enforcement body may  
 2 conduct disciplinary proceedings against a ~~locally licensed or~~  
 3 registered contractor and may require restitution or impose a  
 4 suspension or revocation of the local license or a fine not to  
 5 exceed \$5,000, or a combination thereof, against the ~~locally~~  
 6 ~~licensed or~~ registered contractor, according to ordinances  
 7 which a local jurisdiction may enact. In addition, the local  
 8 jurisdiction may assess reasonable investigative and legal  
 9 costs for the prosecution of the violation against the  
 10 registered contractor ~~violation~~, according to such ordinances  
 11 as the local jurisdiction may enact.

12 (b) In addition to any action the local jurisdiction  
 13 enforcement body may take against the individual's local  
 14 license, and any fine the local jurisdiction may impose, the  
 15 local jurisdiction enforcement body shall issue a recommended  
 16 penalty for board action. This recommended penalty may  
 17 include a recommendation for no further action or a  
 18 recommendation for suspension, revocation, or restriction of  
 19 the registration or imposition of a fine to be levied by the  
 20 board, or a combination thereof. The local jurisdiction  
 21 enforcement body shall inform the disciplined registered  
 22 contractor and the complainant of the local ~~license~~ penalty  
 23 imposed, the board penalty recommended, the rights to appeal,  
 24 and the consequences should the registered contractor decide  
 25 not to appeal. The local jurisdiction enforcement body shall,  
 26 upon having reached adjudication or having accepted a plea of  
 27 nolo contendere, immediately inform the board of its action  
 28 and the recommended board penalty.

29 (c) The department, the disciplined registered  
 30 contractor, or the complainant may challenge the local  
 31 jurisdiction enforcement body's recommended penalty for board

1 action to the Electrical Contractors' Licensing Board. A  
2 challenge shall be filed within 60 days after the issuance of  
3 the recommended penalty to the board. If challenged, there is  
4 a presumptive finding of probable cause and the case may  
5 proceed without the need for a probable cause hearing.

6 (d) Failure of the department, the disciplined  
7 registered contractor, or the complainant to challenge the  
8 local jurisdiction's recommended penalty within the time  
9 period set forth in this subsection shall constitute a waiver  
10 of the right to a hearing before the board. A waiver of the  
11 right to a hearing before the board shall be deemed an  
12 admission of the violation, and the penalty recommended shall  
13 become a final order according to procedures developed by  
14 board rule without further board action. The disciplined  
15 registered contractor may appeal this board action to the  
16 district court.

17 (e) The department may investigate any complaint which  
18 is made with the department. However, if the department  
19 determines that the complaint against a registered contractor  
20 is for an action which a local jurisdiction enforcement body  
21 has investigated and reached adjudication or accepted a plea  
22 of nolo contendere, including a recommended penalty to the  
23 board, the department shall not initiate prosecution for that  
24 action, unless the secretary has initiated summary procedures  
25 pursuant to s. 455.225(8).

26 (f) Nothing in this subsection shall be construed to  
27 allow local jurisdictions to exercise disciplinary authority  
28 over certified contractors.

29 Section 45. Section 489.532, Florida Statutes, is  
30 amended to read:

31

1           489.532 Contracts performed by unlicensed contractors  
2 unenforceable.--As a matter of public policy, contracts  
3 entered into on or after October 1, 1990, and performed in  
4 full or in part by any contractor who fails to obtain or  
5 maintain his or her license in accordance with this part shall  
6 be unenforceable in law, and the court in its discretion may  
7 extend this provision to equitable remedies. ~~However, in the~~  
8 ~~event the contractor obtains or reinstates the license the~~  
9 ~~provisions of this section shall no longer apply.~~

10           Section 46. Subsections (14) through (26) of section  
11 633.021, Florida Statutes, are renumbered as subsections (15)  
12 through (27), and a new subsection (14) is added to said  
13 section, to read:

14           633.021 Definitions.--As used in this chapter:

15           (14) "Layout" as used in this chapter means the layout  
16 of risers, cross mains, branch lines, sprinkler heads, sizing  
17 of pipe, hanger locations, and hydraulic calculations in  
18 accordance with the design concepts established through the  
19 provisions of s. 553.79(6)(c).

20           Section 47. Except as otherwise provided, this act  
21 shall take effect July 1, 2000.