

By the Committee on Regulated Industries and Senator Dyer

315-2098-00

1                                   A bill to be entitled  
2           An act relating to construction contracting;  
3           amending s. 489.13, F.S.; providing for  
4           issuance of a notice of noncompliance,  
5           imposition of an administrative fine, and  
6           assessment of reasonable investigative and  
7           legal costs of prosecution for unlicensed  
8           contracting; specifying that such remedies are  
9           not exclusive; providing for uses of fine  
10          proceeds; requiring the Department of Business  
11          and Professional Regulation to create a web  
12          page on its Internet website dedicated to  
13          listing known information on unlicensed  
14          contractors; providing an effective date.

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

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18           Section 1. Section 489.13, Florida Statutes, is  
19 amended to read:

20           489.13 Unlicensed contracting; notice of  
21 noncompliance; fine; authority to issue or receive a building  
22 permit; web page.--

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

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

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

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

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

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

28           (5)(2) A local building department shall not issue a  
29 building permit to any contractor, or to any person  
30 representing himself or herself as a contractor, who does not  
31 hold a valid active certificate or registration in the

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

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

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

27 Section 2. This act shall take effect July 1, 2000.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1554

The Proposed Committee Substitute for Senate Bill 1554 deletes provisions increasing criminal penalties for unlicensed construction contracting and increases administrative fines. It also requires an unlicensed contractor page on the Department of Business and Professional Regulation's Internet website.