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Bill No. CS for SB 220

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 Representative(s) Ogles, J. Miller, Stansel, Wasserman
 12 Schultz, and Ritchie offered the following:

Amendment (with title amendment)

15 On page 16, line 9,
 16 remove from the bill: all of said line

18 and insert in lieu thereof:

19 Section 11. Effective upon this act becoming a law,
 20 the Office of Program Policy Analysis and Government
 21 Accountability (OPPAGA), in consultation with the Legislative
 22 Committee on Intergovernmental Relations, shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Section 12. Effective January 1, 2001, subsection (1)
4 of section 399.13, Florida Statutes, is amended to read:

5 399.13 Delegation of authority to municipalities or
6 counties.--

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

22 Section 13. Subsections (2) and (6) of section
23 468.603, Florida Statutes, are amended, and subsection (8) is
24 added to said section, to read:

25 468.603 Definitions.--As used in this part:

26 (2) "Building code inspector" ~~or "inspector"~~ means any
27 of those employees of local governments or state agencies with
28 building construction regulation responsibilities who
29 themselves conduct inspections of building construction,
30 erection, repair, addition, or alteration projects that
31 require permitting indicating compliance with building,

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1 plumbing, mechanical, electrical, gas, fire prevention,
2 energy, accessibility, and other construction codes as
3 required by state law or municipal or county ordinance.

4 (6) "Categories of building code inspectors" include
5 the following:

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

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

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

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

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

30 (f) "Plumbing inspector" means a person who is
31 qualified to inspect and determine that the plumbing

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1 installations and systems for buildings and structures are in
2 compliance with the provisions of the governing plumbing code.

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

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

13 (8) "Building code enforcement official" or
14 "enforcement official" means a licensed building code
15 administrator, building code inspector, or plans examiner.

16 Section 14. Section 468.604, Florida Statutes, is
17 amended to read:

18 468.604 Responsibilities of building code
19 administrators, plans examiners, and building code
20 inspectors.--

21 (1) It is the responsibility of the building code
22 administrator or building official to administrate, supervise,
23 direct, enforce, or perform the permitting and inspection of
24 construction, alteration, repair, remodeling, or demolition of
25 structures and the installation of building systems within the
26 boundaries of their governmental jurisdiction, when permitting
27 is required, to ensure compliance with building, plumbing,
28 mechanical, electrical, gas fuel, energy conservation,
29 accessibility, and other construction codes which are required
30 or adopted by municipal code, county ordinance, or state law.
31 The building code administrator or building official shall

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1 faithfully perform these responsibilities without interference
2 from any person. These responsibilities include:

3 (a) The review of construction plans to ensure
4 compliance with all applicable codes. The construction plans
5 must be reviewed before the issuance of any building, system
6 installation, or other construction permit. The review of
7 construction plans must be done by the building code
8 administrator or building official or by a person having the
9 appropriate plans examiner license issued under this chapter.

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

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

30 (3) It is the responsibility of the plans examiner to
31 conduct review of construction plans submitted in the permit

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1 application to assure compliance with all applicable codes
2 required by municipal code, county ordinance, or state law.
3 The review of construction plans must be done by the building
4 code administrator or building official or by a person
5 licensed in the appropriate plans examiner category as defined
6 in s. 468.603. The plans examiner's responsibilities must be
7 performed under the supervision and authority of the building
8 code administrator or building official without interference
9 from any unlicensed person.

10 Section 15. Paragraph (c) of subsection (2) of section
11 468.605, Florida Statutes, is amended to read:

12 468.605 Florida Building Code Administrators and
13 Inspectors Board.--

14 (2) The board shall consist of nine members, as
15 follows:

16 (c) Two members serving as building code inspectors.
17

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

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

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

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1 certificate issued in accordance with the provisions of this
2 part.

3 Section 17. Section 468.609, Florida Statutes, is
4 amended to read:

5 468.609 Administration of this part; standards for
6 certification; additional categories of certification.--

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

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

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

15 (b) Is of good moral character; and

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

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

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

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

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1 4. Currently holds a standard certificate as issued by
2 the board and satisfactorily completes a building code an
3 inspector or plans examiner training program of not less than
4 200 hours in the certification category sought. The board
5 shall establish by rule criteria for the development and
6 implementation of the training programs.

7 (d) Demonstrates successful completion of the core
8 curriculum and specialized or advanced module coursework
9 approved by the Florida Building Commission, as part of the
10 Building Code Training Program established pursuant to s.
11 553.841, appropriate to the licensing category sought or,
12 pursuant to authorization by the certifying authority,
13 provides proof of completion of such curriculum or coursework
14 within 6 months after such certification.

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

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

19 (b) Is of good moral character; and

20 (c) Meets eligibility requirements according to one of
21 the following criteria:

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

27 2. Demonstrates a combination of postsecondary
28 education in the field of construction or related field, no
29 more than 5 years of which may be applied, and experience as
30 an architect, engineer, plans examiner, building code
31 inspector, registered or certified contractor, or construction

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1 superintendent which totals 10 years, with at least 5 years of
2 such total being experience in supervisory positions.

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

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

17 (a) A standard certificate.

18 (b) A limited certificate.

19 (c) A provisional certificate.

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

1 and the Council of American Building Officials.

2 (b) A standard certificate shall be issued to each
3 applicant who successfully completes the examination, which
4 certificate authorizes the individual named thereon to
5 practice throughout the state as a building code
6 administrator, plans examiner, or building code inspector
7 within such class and level as is specified by the board.

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

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

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

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

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1 (d) A building code administrator, plans examiner, or
2 building code inspector holding a limited certificate can be
3 promoted to a position requiring a higher level certificate
4 only upon issuance of a standard certificate or provisional
5 certificate appropriate for such new position.

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

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

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

25 (d) A newly employed or hired person may perform the
26 duties of a plans examiner or building code inspector for 90
27 days if a provisional certificate application has been
28 submitted, provided such person is under the direct
29 supervision of a certified building code administrator who
30 holds a standard certification and who has found such person
31 qualified for a provisional certificate. However, direct

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1 supervision and the determination of qualifications under this
2 paragraph may be provided by a building code administrator who
3 holds a limited or provisional certificate in any county with
4 a population of less than 75,000 and in any municipality
5 located within such a county.

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

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

26 (8)(9) Any individual applying to the board may be
27 issued a certificate valid for multiple building code
28 inspection classes, as deemed appropriate by the board.

29 (9)(10) Certification and training classes may be
30 developed in coordination with degree career education
31 centers, community colleges, the State University System, or

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1 other entities offering certification and training classes.

2 ~~(10)(11)~~ The board may by rule create categories of
3 certification in addition to those defined in s. 468.603(6)
4 and (7). Such certification categories shall not be mandatory
5 and shall not act to diminish the scope of any certificate
6 created by statute.

7 Section 18. Section 468.617, Florida Statutes, is
8 amended to read:

9 468.617 Joint building code inspection department;
10 other arrangements.--

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

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

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

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

3 468.619 Building code enforcement officials' bill of
4 rights.--

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

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

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

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

1 (b) An enforcement official may not be subjected to an
2 interview without first receiving written notice of sufficient
3 details of the complaint in order to be reasonably apprised of
4 the nature of the investigation and of the substance of the
5 allegations made. The enforcement official shall be informed
6 prior to the interview whether the complaint originated from
7 the department or from a consumer.

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

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

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

28 (f) If the testimony is transcribed, the transcript
29 must be furnished to the enforcement official for examination,
30 and shall be read to or by the enforcement official, unless
31 waived by all parties involved. Any changes in form or

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1 substance that the enforcement official wants to make shall be
2 listed in writing, with a statement of the reasons for making
3 the changes. The changes shall be attached to the transcript.
4 Any transcript of an interview with an enforcement official
5 which is to be used in any proceeding against the enforcement
6 official shall be sworn or affirmed to and acknowledged by the
7 enforcement official.

8 (4) The investigation of a complaint against an
9 enforcement official is subject to the time restrictions set
10 forth in this subsection, and failure to comply with any time
11 restriction set forth in this subsection shall result in
12 dismissal of the complaint against the enforcement official.
13 An investigation of a complaint against an enforcement
14 official that was dismissed for failure to comply with a time
15 restriction set forth in this subsection may not be reopened.
16 However, in any instance of an additional complaint being
17 initiated, information or investigation related to the
18 dismissed complaint may be used.

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

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

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

1 dismiss the complaint with prejudice.

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

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

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

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

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

31 Section 20. Subsection (3) of section 468.621, Florida

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1 Statutes, is amended to read:

2 468.621 Disciplinary proceedings.--

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

9 Section 21. Subsections (2), (3), and (4) of section
10 468.627, Florida Statutes, are amended to read:

11 468.627 Application; examination; renewal; fees.--

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

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

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

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

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

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

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

27 468.633 Authority of local government.--

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

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

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

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

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

9 (a) "Local officer" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 a. "Building materials" means tangible personal
31 property which becomes a component part of improvements to

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1 real property.

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

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

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

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

11 Section 27. Paragraph (a) of subsection (2) of section
12 252.924, Florida Statutes, is amended to read:

13 252.924 Party state responsibilities.--

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

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

29 Section 28. Paragraph (j) of subsection (3) of section
30 404.056, Florida Statutes, is amended to read:

31 404.056 Environmental radiation standards and

1 programs; radon protection.--
2 (3) CERTIFICATION.--
3 (j) The department may set criteria and requirements
4 for the application, certification, and annual renewal of
5 certification for radon measurement and mitigation businesses,
6 which may include:
7 1. Requirements for measurement devices and
8 measurement procedures, including the disclosure of mitigation
9 materials, systems, and other mitigation services offered.
10 2. The identification of certified specialists and
11 technicians employed by the business and requirements for
12 specialist staffing and duties.
13 3. The analysis of measurement devices by proficient
14 analytical service providers.
15 4. Requirements for a quality assurance and quality
16 control program.
17 5. The disclosure of client measurement reporting
18 forms and warranties and operating instructions for mitigation
19 systems.
20 6. Requirements for radon services publications and
21 the identification of the radon business certification number
22 in advertisements.
23 7. Requirements for a worker health and safety
24 program.
25 8. Requirements for maintaining radon records.
26 9. The operation of branch office locations.
27 10. Requirements for supervising subcontractors who
28 install mitigation systems.
29 11. Requirements for building code inspections and
30 evaluation and standards for the design and installation of
31 mitigation systems.

1 12. Prescribing conditions of mitigation measurements.

2 Section 29. Section 471.045, Florida Statutes, is
3 amended to read:

4 471.045 Professional engineers performing building
5 code inspector duties.--Notwithstanding any other provision of
6 law, a person who is currently licensed under this chapter to
7 practice as a professional engineer may provide building code
8 inspection services described in s. 468.603(6) and (7) to a
9 local government or state agency upon its request, without
10 being certified by the Florida Building Code Administrators
11 and Inspectors Board under part XII of chapter 468. When
12 performing these building code inspection services, the
13 professional engineer is subject to the disciplinary
14 guidelines of this chapter and s. 468.621(1)(c)-(h). Any
15 complaint processing, investigation, and discipline that arise
16 out of a professional engineer's performing building code
17 inspection services shall be conducted by the Board of
18 Professional Engineers rather than the Florida Building Code
19 Administrators and Inspectors Board. A professional engineer
20 may not perform plans review as an employee of a local
21 government upon any job that the professional engineer or the
22 professional engineer's company designed.

23 Section 30. Section 481.222, Florida Statutes, is
24 amended to read:

25 481.222 Architects performing building code inspector
26 duties.--Notwithstanding any other provision of law, a person
27 who is currently licensed to practice as an architect under
28 this part may provide building code inspection services
29 described in s. 468.603(6) and (7) to a local government or
30 state agency upon its request, without being certified by the
31 Florida Building Code Administrators and Inspectors Board

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1 under part XII of chapter 468. With respect to the performance
2 of such building code inspection services, the architect is
3 subject to the disciplinary guidelines of this part and s.
4 468.621(1)(c)-(h). Any complaint processing, investigation,
5 and discipline that arise out of an architect's performance of
6 building code inspection services shall be conducted by the
7 Board of Architecture and Interior Design rather than the
8 Florida Building Code Administrators and Inspectors Board. An
9 architect may not perform plans review as an employee of a
10 local government upon any job that the architect or the
11 architect's company designed.

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

14 489.103 Exemptions.--This part does not apply to:

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

19 (b) Obtain all required building code inspections.

20 Section 32. Section 725.06, Florida Statutes, is
21 amended to read:

22 725.06 Construction contracts; limitation on
23 indemnification.

24 (1) A construction contract may require a party to
25 that contract to indemnify and hold harmless the other party
26 to the contract, their officers and employees, from
27 liabilities, damages, losses and costs, including, but not
28 limited to reasonable attorney's fees, to the extent caused by
29 the negligence, recklessness or intentional wrongful
30 misconduct of the indemnifying party and persons employed or
31 utilized by the indemnifying party in the performance of the

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1 construction contract.

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

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

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

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

29 Section 33. Subsections (1) and (3) of section
30 471.025, Florida Statutes, are amended to read:

31 471.025 Seals.--

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1 (1) The board shall prescribe, by rule, a form of seal
2 to be used by registrants holding valid certificates of
3 registration. Each registrant shall obtain an impression-type
4 metal seal in the form aforesaid and may, in addition,
5 register his or her seal electronically in accordance with ss.
6 282.70-282.75. All final drawings, specifications, plans,
7 reports, or documents prepared or issued by the registrant and
8 being filed for public record and all final bid documents
9 provided to the owner or the owner's representative shall be
10 signed by the registrant, dated, and stamped with said seal.
11 Such signature, date, and seal shall be evidence of the
12 authenticity of that to which they are affixed. Drawings,
13 specifications, plans, reports, final bid documents, or
14 documents prepared or issued by a registrant may be
15 transmitted electronically and may be signed by the
16 registrant, dated, and stamped electronically with said seal
17 in accordance with ss. 282.70-282.75.

18 (3) No registrant shall affix or permit to be affixed
19 his or her seal, name, or digital signature to any plan,
20 specification, drawing, final bid document, or other document
21 that which depicts work which he or she is not licensed to
22 perform or which is beyond his or her profession or specialty
23 therein.

24 Section 34. Paragraphs (j), (k), and (l) of subsection
25 (3) of section 489.105, Florida Statutes, are amended to read:

26 489.105 Definitions.--As used in this part:

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

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

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

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

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

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

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

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

29 Section 35. Section 489.118, Florida Statutes, is
30 amended to read:

31 489.118 Certification of registered contractors;

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

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

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

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

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

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

3
4 Applicants wishing to obtain a certificate pursuant to this
5 section must make application by November 1, 2004.

6 Section 36. Section 489.128, Florida Statutes, is
7 amended to read:

8 489.128 Contracts performed by unlicensed contractors
9 unenforceable.--As a matter of public policy, contracts
10 entered into on or after October 1, 1990, and performed in
11 full or in part by any contractor who fails to obtain or
12 maintain a license in accordance with this part shall be
13 unenforceable in law or in equity. ~~However, in the event the~~
14 ~~contractor obtains or reinstates his or her license, the~~
15 ~~provisions of this section shall no longer apply.~~

16 Section 37. Subsections (12) and (15) of section
17 489.503, Florida Statutes, are amended to read:

18 489.503 Exemptions.--This part does not apply to:

19 (12) Any person as defined and licensed under chapter
20 527 while engaged in work regulated under that chapter.

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

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

28 (b) Performs services for the Department of Elderly
29 Affairs;

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

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

4 Section 38. Subsection (26) of section 489.505,
5 Florida Statutes, is amended to read:

6 489.505 Definitions.--As used in this part:

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

14 Section 39. Section 489.507, Florida Statutes, is
15 amended to read:

16 489.507 Electrical Contractors' Licensing Board.--

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

25 (2) To be eligible to serve, each contractor member
26 must have been certified by the board to operate as a
27 contractor in the category with respect to which the member is
28 appointed, be actively engaged in the construction business,
29 and have been so engaged for a period of not less than 5
30 consecutive years before the date of appointment. Each
31 appointee must be a citizen and resident of the state.

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

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

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

17 (6)(5) The Electrical Contractors' Licensing Board and
18 the Construction Industry Licensing Board shall each appoint a
19 committee to meet jointly at least twice a year.

20 Section 40. Section 489.514, Florida Statutes, is
21 amended to read:

22 489.514 Certification for registered contractors;
23 grandfathering provisions.--

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

28 (a) To an applying registered electrical contractor a
29 certificate as an electrical contractor, as defined in s.
30 489.505(12); or

31 (b) To an applying registered alarm system contractor

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1 a certificate in the matching alarm system contractor
2 category, as defined in s. 489.505(2)(a) or (b); or

3 (c) To an applying registered electrical speciality
4 contractor a certificate in the matching electrical speciality
5 contractor category, as defined in s. 489.505(19).

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

10 (a)(1) Currently holds a valid registered local
11 license in the category of electrical contractor, or alarm
12 system contractor, or electrical speciality contractor.

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

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

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

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

7 (3) An applicant must make application by November 1,
8 2004, to be licensed pursuant to this section.

9 Section 41. Paragraph (e) is added to subsection (2)
10 of section 489.5185, Florida Statutes, to read:

11 489.5185 Fire alarm system agents.--

12 (2)

13 (e) Persons who perform only monitoring are not
14 required to complete the training required for fire alarm
15 system agents.

16 Section 42. Subsection (1) of section 489.522, Florida
17 Statutes, is amended to read:

18 489.522 Qualifying agents; responsibilities.--

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

27 (b) When a qualifying agent ceases to qualify a
28 business, the qualifying agent must transfer the license to
29 another business, qualify himself or herself as an individual,
30 or place the license in an inactive status within 60 days
31 after termination of the qualifying status with the business.

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1 Section 43. Subsection (5) of section 489.531, Florida
2 Statutes, is renumbered as subsection (6) and amended, present
3 subsections (3), (4), (6), and (7) are renumbered as
4 subsections (4), (5), (7), and (8), respectively, and a new
5 subsection (3) is added to said section, to read:

6 489.531 Prohibitions; penalties.--

7 (1) A person may not:

8 (a) Practice contracting unless the person is
9 certified or registered;

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

16 (c) Present as his or her own the certificate or
17 registration of another;

18 (d) Use or attempt to use a certificate or
19 registration that has been suspended, revoked, or placed on
20 inactive or delinquent status;

21 (e) Employ persons who are not certified or registered
22 to practice contracting;

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

25 (g) Operate a business organization engaged in
26 contracting after 60 days following the termination of its
27 only qualifying agent without designating another primary
28 qualifying agent;

29 (h) Conceal information relative to violations of this
30 part;

31 (i) Commence or perform work for which a building

1 permit is required pursuant to part VII of chapter 533 without
2 the building permit being in effect; or

3 (j) Willfully or deliberately disregard or violate any
4 municipal or county ordinance relating to uncertified or
5 unregistered contractors.

6 (3)(a) Any unlicensed person who violates any of the
7 provisions of subsection (1) commits a misdemeanor of the
8 first degree, punishable as provided in s. 775.082 or s.
9 775.083.

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

14 (c) Any unlicensed person who commits a violation of
15 subsection (1) during the existence of a state of emergency
16 declared by executive order of the Governor commits a felony
17 of the third degree, punishable as provided in s. 775.082 or
18 s. 775.083.

19
20 The remedies set forth in this subsection are not exclusive
21 and may be imposed in addition to the remedies set forth in s.
22 489.533(2).

23 (6)~~(5)~~(a) The local governing body of a county or
24 municipality, or its local enforcement body, is authorized to
25 enforce the provisions of this part as well as its local
26 ordinances against ~~locally licensed or~~ registered contractors,
27 as appropriate. The local jurisdiction enforcement body may
28 conduct disciplinary proceedings against a ~~locally licensed or~~
29 registered contractor and may require restitution or impose a
30 suspension or revocation of the local license or a fine not to
31 exceed \$5,000, or a combination thereof, against the ~~locally~~

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1 ~~licensed or~~ registered contractor, according to ordinances
2 which a local jurisdiction may enact. In addition, the local
3 jurisdiction may assess reasonable investigative and legal
4 costs for the prosecution of the violation against the
5 registered contractor ~~violation~~, according to such ordinances
6 as the local jurisdiction may enact.

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

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

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

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

21 (f) Nothing in this subsection shall be construed to
22 allow local jurisdictions to exercise disciplinary authority
23 over certified contractors.

24 Section 44. Section 489.532, Florida Statutes, is
25 amended to read:

26 489.532 Contracts performed by unlicensed contractors
27 unenforceable.--As a matter of public policy, contracts
28 entered into on or after October 1, 1990, and performed in
29 full or in part by any contractor who fails to obtain or
30 maintain his or her license in accordance with this part shall
31 be unenforceable in law, and the court in its discretion may

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1 extend this provision to equitable remedies. ~~However, in the~~
2 ~~event the contractor obtains or reinstates the license the~~
3 ~~provisions of this section shall no longer apply.~~

4 Section 45. Subsections (14) through (26) of section
5 633.021, Florida Statutes, are renumbered as subsections (15)
6 through (27), and a new subsection (14) is added to said
7 section, to read:

8 633.021 Definitions.--As used in this chapter:
9 (14) "Layout" as used in this chapter means the layout
10 of risers, cross mains, branch lines, sprinkler heads, sizing
11 of pipe, hanger locations, and hydraulic calculations in
12 accordance with the design concepts established through the
13 provisions of s. 553.79(6)(c).

14 Section 46. Subsection (8) of section 489.537, Florida
15 Statutes, is repealed.

16 Section 47. Subsections (21), (22), and (23) of
17 section 489.505, Florida Statutes, are amended to read:

18 489.505 Definitions.--As used in this part:

19 (21) "Registered alarm system contractor I" means an
20 alarm system contractor whose business includes all types of
21 alarm systems for all purposes and who is registered with the
22 department pursuant to s. 489.513 ~~or s. 489.537(8)~~. A
23 registered alarm system contractor I may contract only in the
24 jurisdictions for which his or her registration is issued.

25 (22) "Registered alarm system contractor II" means an
26 alarm system contractor whose business includes all types of
27 alarm systems, other than fire, for all purposes and who is
28 registered with the department pursuant to s. 489.513 ~~or s.~~
29 ~~489.537(8)~~. A registered alarm system contractor II may
30 contract only in the jurisdiction for which his or her
31 registration is issued.

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1 (23) "Registered residential alarm system contractor"
 2 means an alarm system contractor whose business is limited to
 3 burglar alarm systems in single-family residential, quadruplex
 4 housing, and mobile homes of a residential occupancy class and
 5 who is registered with the department pursuant to s. 489.513
 6 ~~or s. 489.537(8)~~. The board shall define "residential
 7 occupancy class" by rule. A registered residential alarm
 8 system contractor may contract only in the jurisdiction for
 9 which his or her registration is issued.

10 Section 48. Subsection (2) of section 489.515, Florida
 11 Statutes, is amended to read:

12 489.515 Issuance of certificates; registrations.--

13 (2) The department shall issue a registration to a
 14 person who is in compliance with the provisions of s. 489.513
 15 ~~or s. 489.537(8)~~ and who the board certifies is qualified to
 16 be registered.

17 Section 49. Except as otherwise provided herein, this
 18 act shall take effect July 1, 2000.

19
 20

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

22 And the title is amended as follows:

23 On page 1, line 2, through page 2, line 10,
 24 remove from the title of the bill: all of said lines

25
 26

and insert in lieu thereof:

27 An act relating to regulation of nonmedical
 28 professions; amending s. 471.038, F.S., the
 29 "Florida Engineers Management Corporation Act";
 30 providing purpose; providing for per diem and
 31 travel expenses for the board of directors and

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1 staff of the management corporation; providing
2 for termination of initial appointments and for
3 new appointments to the board of directors;
4 revising powers and duties of the management
5 corporation; providing additional requirements
6 of the contract between the management
7 corporation and the Department of Business and
8 Professional Regulation; changing the
9 submission date of the management corporation's
10 annual status report; specifying that meetings
11 of the board of directors are open to the
12 public as provided by law; providing for
13 maintenance of board records by the management
14 corporation; providing rulemaking authority to
15 the board to ensure the security of
16 examinations; eliminating a provision requiring
17 the Office of Program Policy Analysis and
18 Government Accountability to conduct
19 performance audits at the request of the Joint
20 Legislative Auditing Committee; abrogating the
21 repeal of s. 471.038, F.S., the "Florida
22 Engineers Management Corporation Act,"
23 notwithstanding s. 5, ch. 97-312, Laws of
24 Florida; amending s. 471.005, F.S.; providing
25 definitions; revising cross-references;
26 amending s. 471.0035, F.S.; conforming
27 cross-references; amending ss. 471.011,
28 471.015, 471.017, 471.021, 471.023, 471.033,
29 F.S.; transferring to the management
30 corporation duties of the department relating
31 to issuance, reissuance, and renewal of

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1 licenses, certifications, and temporary
2 registrations and to purchase of the licensure
3 examination; revising cross-references;
4 requiring the Office of Program Policy Analysis
5 and Government Accountability, in consultation
6 with the Legislative Committee on
7 Intergovernmental Relations, to conduct a study
8 of construction retainage methods; specifying
9 areas to be examined; requiring study
10 conclusions and recommendations; amending s.
11 399.13, F.S.; correcting a reference with
12 regard to the inspection code; amending s.
13 468.603, F.S.; redefining "building code
14 inspector" and "categories of building
15 inspectors" and defining "building code
16 enforcement official"; revising intent with
17 respect to the examination required for
18 certification as a building code administrator,
19 plans examiner, or building code inspector;
20 increasing the validity period of a provisional
21 certificate; clarifying to whom a provisional
22 certificate may be issued; authorizing newly
23 employed or hired persons applying for
24 provisional certification to perform for a
25 specified period the duties of a plans examiner
26 or building code inspector under the direct
27 supervision of a building code administrator
28 holding limited or provisional certification in
29 counties with populations below a specified
30 level and the municipalities therein; deleting
31 obsolete standard certificate equivalency

1 provisions; providing for consistency in
2 terminology; creating s. 468.619, F.S.;
3 establishing special disciplinary procedures
4 for building code enforcement officials;
5 amending ss. 112.3145, 125.56, 212.08, 252.924,
6 404.056, 468.603, 468.604, 468.605, 468.607,
7 468.617, 468.621, 468.627, 468.631, 468.633,
8 471.045, 481.222, and 489.103, F.S.; providing
9 for consistency in terminology; amending s.
10 725.06, F.S.; providing for indemnification in
11 construction contracts and voiding all others
12 as being against public policy; amending s.
13 471.025, F.S.; adding a circumstance under
14 which engineering documents must be sealed;
15 amending s. 489.105, F.S.; revising the scope
16 of work of commercial and residential pool/spa
17 contractors and swimming pool/spa servicing
18 contractors; amending s. 489.118, F.S.;
19 limiting the time period during which
20 registered applicants must apply to receive
21 certification; amending s. 489.128, F.S.;
22 eliminating an exemption from a provision
23 invalidating contracts with unlicensed
24 contractors; amending s. 489.503, F.S.;
25 revising exemptions from regulation under pt.
26 II, ch. 489, F.S., relating to electrical and
27 alarm system contracting; amending s. 489.505,
28 F.S.; revising the definition of "personal
29 emergency response system"; amending s.
30 489.507, F.S.; limiting the rule making
31 authority of the Electrical Contractors

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1 Licensing Board; amending s. 489.514, F.S.;
2 revising grandfathering provisions for
3 certification of registered electrical and
4 alarm system contractors; amending s. 489.5185,
5 F.S.; providing that persons who perform only
6 monitoring are not required to complete the
7 training required for fire alarm system agents;
8 amending s. 489.522, F.S.; providing
9 requirements when a qualifying agent ceases to
10 qualify a business; amending s. 489.531, F.S.;
11 providing penalties for violations by
12 unlicensed persons of acts prohibited under pt.
13 II, ch. 489, F.S., relating to electrical and
14 alarm system contracting; amending s. 489.532,
15 F.S.; eliminating an exemption from a provision
16 invalidating contracts with unlicensed
17 contractors; amending s. 633.021, F.S.; adding
18 a definition of "layout"; repealing s.
19 489.537(8), F.S., relating to obsolete
20 provisions for the registration of alarm system
21 contractors; amending ss. 489.505, 489.515,
22 F.S.; deleting cross references, to conform;
23 providing effective dates.

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