

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

1 amending s. 471.0035, F.S.; conforming
2 cross-references; amending ss. 471.011,
3 471.015, 471.017, 471.021, 471.023, 471.033,
4 F.S.; transferring to the management
5 corporation duties of the department relating
6 to issuance, reissuance, and renewal of
7 licenses, certifications, and temporary
8 registrations and to purchase of the licensure
9 examination; revising cross-references;
10 requiring the Office of Program Policy Analysis
11 and Government Accountability, in consultation
12 with the Legislative Committee on
13 Intergovernmental Relations, to conduct a study
14 of construction retainage methods; specifying
15 areas to be examined; requiring study
16 conclusions and recommendations; amending s.
17 468.603, F.S.; redefining "building code
18 inspector" and "categories of building
19 inspectors" and defining "building code
20 enforcement official"; revising intent with
21 respect to the examination required for
22 certification as a building code administrator,
23 plans examiner, or building code inspector;
24 increasing the validity period of a provisional
25 certificate; clarifying to whom a provisional
26 certificate may be issued; authorizing newly
27 employed or hired persons applying for
28 provisional certification to perform for a
29 specified period the duties of a plans examiner
30 or building code inspector under the direct
31 supervision of a building code administrator

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

1 F.S.; revising the definition of "personal
2 emergency response system"; amending s.
3 489.507, F.S.; limiting the rule making
4 authority of the Electrical Contractors
5 Licensing Board; amending s. 489.514, F.S.;
6 revising grandfathering provisions for
7 certification of registered electrical and
8 alarm system contractors; amending s. 489.5185,
9 F.S.; providing that persons who perform only
10 monitoring are not required to complete the
11 training required for fire alarm system agents;
12 amending s. 489.522, F.S.; providing
13 requirements when a qualifying agent ceases to
14 qualify a business; amending s. 489.531, F.S.;
15 providing penalties for violations by
16 unlicensed persons of acts prohibited under pt.
17 II, ch. 489, F.S., relating to electrical and
18 alarm system contracting; amending s. 489.532,
19 F.S.; eliminating an exemption from a provision
20 invalidating contracts with unlicensed
21 contractors; amending s. 633.021, F.S.; adding
22 a definition of "layout"; repealing s.
23 489.537(8), F.S., relating to obsolete
24 provisions for the registration of alarm system
25 contractors; amending ss. 489.505, 489.515,
26 F.S.; deleting cross-references, to conform;
27 providing effective dates.

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

1 Section 1. Section 471.038, Florida Statutes, is
2 amended to read:

3 471.038 Florida Engineers Management Corporation.--

4 (1) This section may be cited as the "Florida
5 Engineers Management Corporation Act."

6 ~~(2) As used in this section, the term:~~

7 ~~(a) "Board" means the Board of Professional Engineers.~~

8 ~~(b) "Board of directors" means the board of directors
9 of the Florida Engineers Management Corporation.~~

10 ~~(c) "Corporation" means the Florida Engineers
11 Management Corporation.~~

12 ~~(d) "Department" means the Department of Business and
13 Professional Regulation.~~

14 ~~(e) "Secretary" means the Secretary of Business and
15 Professional Regulation.~~

16 ~~(2)(3)(a) It is the finding of the Legislature that
17 the privatization of certain functions that are performed by
18 the department for the board will encourage greater
19 operational and economic efficiency and, therefore, will
20 benefit regulated persons and the public.~~

21 ~~(b) The purpose of this section is to create a
22 public-private partnership by providing~~ It is the intent of
23 ~~the Legislature that a single nonprofit corporation be~~
24 established to provide administrative, investigative, and
25 prosecutorial services to the board and that no additional
26 nonprofit corporation be created for these purposes.

27 ~~(c) It is further the intent of the Legislature that
28 the corporation assume, by July 1, 1998, all duties assigned
29 to it.~~

30 ~~(3)(4)~~ (3) The Florida Engineers Management Corporation is
31 created to provide administrative, investigative, and

1 prosecutorial services to the board in accordance with the
2 provisions of part I of chapter 455 and this chapter. The
3 management corporation may hire staff as necessary to carry
4 out its functions. Such staff are not public employees for the
5 purposes of chapter 110 or chapter 112, except that the board
6 of directors and the staff are subject to the provisions of s.
7 112.061. The provisions of s. 768.28 apply to the management
8 corporation, which is deemed to be a corporation primarily
9 acting as an instrumentality of the state, but which is not an
10 agency within the meaning of s. 20.03(11). The management
11 corporation shall:

12 (a) Be a Florida corporation not for profit,
13 incorporated under the provisions of chapter 617.

14 (b) Provide administrative, investigative, and
15 prosecutorial services to the board in accordance with the
16 provisions of part I of chapter 455, and this chapter, and the
17 contract required by this section.

18 (c) Receive, hold, and administer property and make
19 only prudent expenditures directly related to the
20 responsibilities for the benefit of the board, and in
21 accordance with the contract required by this section.

22 (d) Be approved by the board and the department to
23 operate for the benefit of the board and in the best interest
24 of the state.

25 (e) Operate under a fiscal year that begins on July 1
26 of each year and ends on June 30 of the following year.

27 (f) Have a seven-member board of directors, five of
28 whom are to be appointed by the board and must be registrants
29 regulated by the board and two of whom are to be appointed by
30 the secretary and must be laypersons not regulated by the
31 board. All initial appointments shall expire on October 31,

1 2000. Current members may be appointed to one additional term
2 that complies with the provisions of this paragraph. Two
3 members shall be appointed for 2 years, three members shall be
4 appointed for 3 years, and two members shall be appointed for
5 4 years. One layperson shall be appointed to a 3-year term and
6 one layperson shall be appointed to a 4-year term. Thereafter,
7 all appointments shall be for 4-year terms. No new member
8 shall serve more than two consecutive terms. Failure to attend
9 three consecutive meetings shall be deemed a resignation from
10 the board, and the vacancy shall be filled by a new
11 appointment.

12 (g) The corporation shall Select its officers in
13 accordance with its bylaws. The members of the board of
14 directors may be removed by the board, with the concurrence of
15 the department, for the same reasons that a board member may
16 be removed.

17 (h) Use a portion of the interest derived from the
18 management corporation account to offset the costs associated
19 with the use of credit cards for payment of fees by applicants
20 or licensees.

21 (i)(g) Operate under an annual a written contract with
22 the department which is approved by the board ~~and renewed~~
23 ~~annually. The initial contract must be entered into no later~~
24 ~~than March 1, 1998. The contract must provide for, but is not~~
25 limited to:

26 1. Approval of the articles of incorporation and
27 bylaws of the management corporation by the department and the
28 board.

29 2. Submission by the management corporation of an
30 annual budget that complies with board rules for approval by
31 the board and the department.

1 3. Annual certification by the board and the
2 department that the management corporation is complying with
3 the terms of the contract in a manner consistent with the
4 goals and purposes of the board and in the best interest of
5 the state. This certification must be reported in the board's
6 minutes. The contract must also provide for methods and
7 mechanisms to resolve any situation in which the certification
8 process determines noncompliance.

9 4. Employment by the department of a contract
10 administrator to actively supervise the administrative,
11 investigative, and prosecutorial activities of the management
12 corporation to ensure compliance with the contract and the
13 provisions of part I of chapter 455 and this chapter and to
14 act as a liaison for the department, the board, and the
15 management corporation to ensure the effective operation of
16 the management corporation.

17 5. Funding of the management corporation through
18 appropriations allocated to the regulation of professional
19 engineers from the Professional Regulation Trust Fund.

20 6. The reversion to the board, or the state if the
21 board ceases to exist, of moneys, records, data, and property
22 held in trust by the management corporation for the benefit of
23 the board, if the management corporation is no longer approved
24 to operate for the board or the board ceases to exist. All
25 records and data in a computerized database shall be returned
26 to the department in a form that is compatible with the
27 computerized database of the department.

28 7. The securing and maintaining by the management
29 corporation, during the term of the contract and for all acts
30 performed during the term of the contract, of all liability
31 insurance coverages in an amount to be approved by the

1 department to defend, indemnify, and hold harmless the
2 management corporation and its officers and employees, the
3 department and its employees, and the state against all claims
4 arising from state and federal laws. Such insurance coverage
5 must be with insurers qualified and doing business in the
6 state. The management corporation must provide proof of
7 insurance to the department. The department and its employees
8 and the state are exempt from and are not liable for any sum
9 of money which represents a deductible, which sums shall be
10 the sole responsibility of the management corporation.
11 Violation of this subparagraph shall be grounds for
12 terminating the contract.

13 8. Payment by the management corporation, out of its
14 allocated budget, to the department of all costs of
15 representation by the board counsel, including salary and
16 benefits, travel, and any other compensation traditionally
17 paid by the department to other board counsels.

18 9. Payment by the management corporation, out of its
19 allocated budget, to the department of all costs incurred by
20 the management corporation or the board for the Division of
21 Administrative Hearings of the Department of Management
22 Services and any other cost for utilization of these state
23 services.

24 10. Payment by the management corporation, out of its
25 allocated budget, to the department of all costs associated
26 with the contract administrator of the department, including
27 salary and benefits, travel, and other related costs
28 traditionally paid to state employees.

29 ~~(j)(h)~~ Provide for an annual financial and compliance
30 audit of its financial accounts and records by an independent
31 certified public accountant in accordance with generally

1 accepted auditing standards ~~conjunction with the Auditor~~
2 ~~General.~~ The annual audit report shall include a detailed
3 supplemental schedule of expenditures for each expenditure
4 category and a management letter.The annual audit report must
5 be submitted to the board, ~~and~~ the department, and the Auditor
6 General for review ~~and approval.~~ ~~Copies of the audit must be~~
7 ~~submitted to the secretary and the Legislature together with~~
8 ~~any other information requested by the secretary, the board,~~
9 ~~or the Legislature.~~ The Auditor General may, pursuant to his
10 or her own authority or at the direction of the Legislative
11 Auditing Committee, conduct an audit of the corporation.

12 (k) Provide for persons charged with the
13 responsibility of receiving and depositing fee and fine
14 revenues to have a faithful performance bond in such an amount
15 and according to such terms as shall be determined in the
16 contract.

17 (l)(i) Submit to the secretary, the board, and the
18 Legislature, on or before January 1 of each year, a report on
19 the status of the corporation which includes, but is not
20 limited to, information concerning the programs and funds that
21 have been transferred to the corporation. The report must
22 include: the number of license applications received; the
23 number approved and denied and the number of licenses issued;
24 the number of examinations administered and the number of
25 applicants who passed or failed the examination; the number of
26 complaints received; the number determined to be legally
27 sufficient; the number dismissed; the number determined to
28 have probable cause; the number of administrative complaints
29 issued and the status of the complaints; and the number and
30 nature of disciplinary actions taken by the board.

31

1 (m) Develop, with the department, performance
2 standards and measurable outcomes for the board to adopt by
3 rule in order to facilitate efficient and cost-effective
4 regulation.

5 ~~(4)(5)~~ The management corporation may not exercise any
6 authority specifically assigned to the board under part I of
7 chapter 455 or this chapter, including determining probable
8 cause to pursue disciplinary action against a licensee, taking
9 final action on license applications or in disciplinary cases,
10 or adopting administrative rules under chapter 120.

11 ~~(5)(6)~~ The department shall retain the independent
12 authority to open, investigate, or prosecute any cases or
13 complaints, as necessary to protect the public health, safety,
14 or welfare. In addition, the department shall retain sole
15 authority to issue emergency suspension or restriction orders
16 pursuant to s. 120.60 and to prosecute unlicensed activity
17 cases pursuant to ss. 455.228 and 455.2281.

18 ~~(6)(7)~~ Management corporation records are public
19 records subject to the provisions of s. 119.07(1) and s.
20 24(a), Art. I of the State Constitution; however, public
21 records exemptions set forth in ss. 455.217 and 455.229 for
22 records created or maintained by the department shall apply to
23 records created or maintained by the management corporation.
24 In addition, all meetings of the board of directors are open
25 to the public in accordance with s. 286.011 and s. 24(b), Art.
26 I of the State Constitution.The exemptions set forth in s.
27 455.225, relating to complaints and information obtained
28 pursuant to an investigation by the department, shall apply to
29 such records created or obtained by the management corporation
30 only until an investigation ceases to be active. For the
31 purposes of this subsection, an investigation is considered

1 active so long as the management corporation or any law
2 enforcement or administrative agency is proceeding with
3 reasonable dispatch and has a reasonable, good faith belief
4 that it may lead to the filing of administrative, civil, or
5 criminal proceedings. An investigation ceases to be active
6 when the case is dismissed prior to a finding of probable
7 cause and the board has not exercised its option to pursue the
8 case or 10 days after the board makes a determination
9 regarding probable cause. All information, records, and
10 transcriptions regarding a complaint that has been determined
11 to be legally sufficient to state a claim within the
12 jurisdiction of the board become available to the public when
13 the investigation ceases to be active, except information that
14 is otherwise confidential or exempt from s. 119.07(1).
15 However, in response to an inquiry about the licensure status
16 of an individual, the management corporation shall disclose
17 the existence of an active investigation if the nature of the
18 violation under investigation involves the potential for
19 substantial physical or financial harm to the public. The
20 board shall designate by rule those violations that involve
21 the potential for substantial physical or financial harm. The
22 department and the board shall have access to all records of
23 the management corporation, as necessary to exercise their
24 authority to approve and supervise the contract.

25 (7) The management corporation is the sole source and
26 depository for the records of the board, including all
27 historical information and records. The management corporation
28 shall maintain those records in accordance with the guidelines
29 of the Department of State and shall not destroy any records
30 prior to the limits imposed by the Department of State.

31

1 (8) The board shall provide by rule for the procedures
2 the management corporation must follow to ensure that all
3 licensure examinations are secure while under the
4 responsibility of the management corporation and that there is
5 an appropriate level of monitoring during the licensure
6 examinations.~~The Office of Program Policy Analysis and~~
7 ~~Governmental Accountability within the Office of the Auditor~~
8 ~~General shall conduct a performance audit of the corporation~~
9 ~~for the period beginning January 1, 1998, through January 1,~~
10 ~~2000, and thereafter at the request of the Joint Legislative~~
11 ~~Auditing Committee.~~

12 Section 2. Notwithstanding section 5 of chapter
13 97-312, Laws of Florida, section 471.038, Florida Statutes,
14 shall not stand repealed on October 1, 2000, as scheduled by
15 such law, but section 471.038, Florida Statutes, as amended by
16 this act, is revived and readopted.

17 Section 3. Section 471.005, Florida Statutes, is
18 amended to read:

19 471.005 Definitions.--As used in this chapter ~~ss.~~
20 ~~471.001-471.037~~, the term:

21 (1) "Board" means the Board of Professional Engineers.

22 (2) "Board of directors" means the board of directors
23 of the Florida Engineers Management Corporation.

24 (3)~~(2)~~ "Certificate of authorization" means a license
25 to practice engineering issued by the management corporation
26 ~~department~~ to a corporation or partnership.

27 (4)~~(3)~~ "Department" means the Department of Business
28 and Professional Regulation.

29 (5)~~(4)~~ "Engineer" includes the terms "professional
30 engineer" and "registered engineer" and means a person who is
31

1 registered to engage in the practice of engineering under this
2 chapter ~~ss. 471.001-471.037~~.

3 (6)~~(5)~~ "Engineer intern" means a person who has
4 graduated from, or is in the final year of, an engineering
5 curriculum approved by the board and has passed the
6 fundamentals of engineering examination as provided by rules
7 adopted by the board.

8 (7)~~(6)~~ "Engineering" includes the term "professional
9 engineering" and means any service or creative work, the
10 adequate performance of which requires engineering education,
11 training, and experience in the application of special
12 knowledge of the mathematical, physical, and engineering
13 sciences to such services or creative work as consultation,
14 investigation, evaluation, planning, and design of engineering
15 works and systems, planning the use of land and water,
16 teaching of the principles and methods of engineering design,
17 engineering surveys, and the inspection of construction for
18 the purpose of determining in general if the work is
19 proceeding in compliance with drawings and specifications, any
20 of which embraces such services or work, either public or
21 private, in connection with any utilities, structures,
22 buildings, machines, equipment, processes, work systems,
23 projects, and industrial or consumer products or equipment of
24 a mechanical, electrical, hydraulic, pneumatic, or thermal
25 nature, insofar as they involve safeguarding life, health, or
26 property; and includes such other professional services as may
27 be necessary to the planning, progress, and completion of any
28 engineering services. A person who practices any branch of
29 engineering; who, by verbal claim, sign, advertisement,
30 letterhead, or card, or in any other way, represents himself
31 or herself to be an engineer or, through the use of some other

1 title, implies that he or she is an engineer or that he or she
2 is registered under this chapter ~~ss. 471.001-471.037~~; or who
3 holds himself or herself out as able to perform, or does
4 perform, any engineering service or work or any other service
5 designated by the practitioner which is recognized as
6 engineering shall be construed to practice or offer to
7 practice engineering within the meaning and intent of this
8 chapter ~~ss. 471.001-471.037~~.

9 (8)(7) "License" means the registration of engineers
10 or certification of businesses to practice engineering in this
11 state.

12 (9) "Management corporation" means the Florida
13 Engineers Management Corporation.

14 (10) "Secretary" means the Secretary of Business and
15 Professional Regulation.

16 Section 4. Section 471.0035, Florida Statutes, is
17 amended to read:

18 471.0035 Instructors in postsecondary educational
19 institutions; exemption from registration requirement.--For
20 the sole purpose of teaching the principles and methods of
21 engineering design, notwithstanding the provisions of s.
22 471.005~~(7)(6)~~, a person employed by a public postsecondary
23 educational institution, or by an independent postsecondary
24 educational institution licensed or exempt from licensure
25 pursuant to the provisions of chapter 246, is not required to
26 register under the provisions of this chapter ~~ss.~~
27 ~~471.001-471.037~~ as a registered engineer.

28 Section 5. Subsection (2) of section 471.011, Florida
29 Statutes, is amended to read:

30 471.011 Fees.--

31

1 (2) The initial application and examination fee shall
2 not exceed \$125 plus the actual per applicant cost to the
3 management corporation ~~department~~ to purchase the examination
4 from the National Council of Examiners for Engineering and
5 Surveying ~~Engineering Examiners~~ or a similar national
6 organization. The examination fee shall be in an amount which
7 covers the cost of obtaining and administering the examination
8 and shall be refunded if the applicant is found ineligible to
9 sit for the examination. The application fee shall be
10 nonrefundable.

11 Section 6. Subsections (1) and (4) of section 471.015,
12 Florida Statutes, are amended to read:

13 471.015 Licensure.--

14 (1) The management corporation ~~department~~ shall issue
15 a license to any applicant who the board certifies is
16 qualified to practice engineering and who has passed the
17 licensing examination.

18 (4) The management corporation ~~department~~ shall not
19 issue a license by endorsement to any applicant who is under
20 investigation in another state for any act that would
21 constitute a violation of this chapter ~~ss. 471.001-471.037~~ or
22 of part I of chapter 455 until such time as the investigation
23 is complete and disciplinary proceedings have been terminated.

24 Section 7. Subsection (1) of section 471.017, Florida
25 Statutes, is amended to read:

26 471.017 Renewal of license.--

27 (1) The management corporation ~~department~~ shall renew
28 a license upon receipt of the renewal application and fee.

29 Section 8. Subsections (1) and (2) of section 471.021,
30 Florida Statutes, are amended to read:

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1 471.021 Engineers and firms of other states; temporary
2 certificates to practice in Florida.--

3 (1) Upon approval of the board and payment of the fee
4 set in s. 471.011, the management corporation ~~department~~ shall
5 issue ~~grant~~ a temporary registration for work on one specified
6 project in this state for a period not to exceed 1 year to an
7 engineer holding a certificate to practice in another state,
8 provided Florida registrants are similarly permitted to engage
9 in work in such state and provided that the engineer be
10 qualified for licensure by endorsement.

11 (2) Upon approval by the board and payment of the fee
12 set in s. 471.011, the management corporation ~~department~~ shall
13 issue ~~grant~~ a temporary certificate of authorization for work
14 on one specified project in this state for a period not to
15 exceed 1 year to an out-of-state corporation, partnership, or
16 firm, provided one of the principal officers of the
17 corporation, one of the partners of the partnership, or one of
18 the principals in the fictitiously named firm has obtained a
19 temporary certificate of registration in accordance with
20 subsection (1).

21 Section 9. Subsection (1) of section 471.023, Florida
22 Statutes, is amended to read:

23 471.023 Certification of partnerships and
24 corporations.--

25 (1) The practice of, or the offer to practice,
26 engineering by registrants through a corporation or
27 partnership offering engineering services to the public or by
28 a corporation or partnership offering said services to the
29 public through registrants under this chapter ~~ss.~~
30 ~~471.001-471.037~~ as agents, employees, officers, or partners is
31 permitted only if the firm possesses a certification issued by

1 the management corporation ~~department~~ pursuant to
2 qualification by the board, subject to the provisions of this
3 chapter ss. 471.001-471.037. One or more of the principal
4 officers of the corporation or one or more partners of the
5 partnership and all personnel of the corporation or
6 partnership who act in its behalf as engineers in this state
7 shall be registered as provided by this chapter ss.
8 ~~471.001-471.037~~. All final drawings, specifications, plans,
9 reports, or documents involving practices registered under
10 this chapter ss. 471.001-471.037 which are prepared or
11 approved for the use of the corporation or partnership or for
12 public record within the state shall be dated and shall bear
13 the signature and seal of the registrant who prepared or
14 approved them. Nothing in this section shall be construed to
15 mean that a certificate of registration to practice
16 engineering shall be held by a corporation. Nothing herein
17 prohibits corporations and partnerships from joining together
18 to offer engineering services to the public, provided each
19 corporation or partnership otherwise meets the requirements of
20 this section. No corporation or partnership shall be relieved
21 of responsibility for the conduct or acts of its agents,
22 employees, or officers by reason of its compliance with this
23 section, nor shall any individual practicing engineering be
24 relieved of responsibility for professional services performed
25 by reason of his or her employment or relationship with a
26 corporation or partnership.

27 Section 10. Subsection (4) of section 471.033, Florida
28 Statutes, is amended to read:

29 471.033 Disciplinary proceedings.--

30 (4) The management corporation ~~department~~ shall
31 reissue the license of a disciplined engineer or business upon

1 certification by the board that the disciplined person has
2 complied with all of the terms and conditions set forth in the
3 final order.

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

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

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

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

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

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

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

28 (a) Whether the state should adopt new laws or modify
29 existing laws to address the specific issues set forth below,
30 and whether any existing statutes will require modification or
31 repeal.

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

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

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

12 (e) What the purposes of retainage are for
13 construction projects.

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

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

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

28 (i) Whether the documentation required for
29 construction projects contributes to delays in progress
30 payments, final payments, and release of retainage; whether
31 such requirements could be simplified or standardized to

1 streamline the process; and whether it is appropriate for the
2 Legislature to address this issue.

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

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

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

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

19 Section 12. Subsections (2) and (6) of section
20 468.603, Florida Statutes, are amended, and subsection (8) is
21 added to said section, to read:

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

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

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

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

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

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

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

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

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

31

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

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

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

14 Section 13. Section 468.604, Florida Statutes, is
15 amended to read:

16 468.604 Responsibilities of building code
17 administrators, plans examiners, and building code
18 inspectors.--

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

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

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

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

28 (3) It is the responsibility of the plans examiner to
29 conduct review of construction plans submitted in the permit
30 application to assure compliance with all applicable codes
31 required by municipal code, county ordinance, or state law.

1 The review of construction plans must be done by the building
2 code administrator or building official or by a person
3 licensed in the appropriate plans examiner category as defined
4 in s. 468.603. The plans examiner's responsibilities must be
5 performed under the supervision and authority of the building
6 code administrator or building official without interference
7 from any unlicensed person.

8 Section 14. Paragraph (c) of subsection (2) of section
9 468.605, Florida Statutes, is amended to read:

10 468.605 Florida Building Code Administrators and
11 Inspectors Board.--

12 (2) The board shall consist of nine members, as
13 follows:

14 (c) Two members serving as building code inspectors.
15

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

19 Section 15. Section 468.607, Florida Statutes, is
20 amended to read:

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

1 Section 16. Section 468.609, Florida Statutes, is
2 amended to read:

3 468.609 Administration of this part; standards for
4 certification; additional categories of certification.--

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

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

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

13 (b) Is of good moral character; and

14 (c) Meets eligibility requirements according to one of
15 the following criteria:

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

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

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

30 4. Currently holds a standard certificate as issued by
31 the board and satisfactorily completes a building code ~~an~~

1 inspector or plans examiner training program of not less than
2 200 hours in the certification category sought. The board
3 shall establish by rule criteria for the development and
4 implementation of the training programs.

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

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

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

17 (b) Is of good moral character; and

18 (c) Meets eligibility requirements according to one of
19 the following criteria:

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

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

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

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

15 (a) A standard certificate.

16 (b) A limited certificate.

17 (c) A provisional certificate.

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

31

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

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

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

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

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

31

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

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

1 centers, community colleges, the State University System, or
2 other entities offering certification and training classes.

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

8 Section 17. Section 468.617, Florida Statutes, is
9 amended to read:

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

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

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

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

1 other statutory provision, such county or municipal
2 governments may enter into contracts.

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

5 468.619 Building code enforcement officials' bill of
6 rights.--

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

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

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

30 (a) The interview shall take place at a reasonable
31 hour. If the interview is taken in person, it shall take place

1 not more than 30 miles from where the licensee works, or at
2 any other mutually agreeable location or time.

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

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

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

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

30 (f) If the testimony is transcribed, the transcript
31 must be furnished to the enforcement official for examination,

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

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

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

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

27 (c) No longer than 180 days from the date of the
28 receipt of the complaint, the department shall submit the
29 investigation, whether complete or not, to the probable cause
30 panel for review. In the event the investigation is not
31 complete, the probable cause panel shall review and instruct

1 the department to complete the investigation within a time
2 certain and, in no event, greater than ninety (90) days or
3 dismiss the complaint with prejudice.

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

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

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

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

29 (9) Notwithstanding any other provision in law, while
30 under investigation the enforcement official shall not be
31

1 denied any and all the rights and privileges of a licensee in
2 good standing.

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

5 468.621 Disciplinary proceedings.--

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

12 Section 20. Subsections (2), (3), and (4) of section
13 468.627, Florida Statutes, are amended to read:

14 468.627 Application; examination; renewal; fees.--

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

18 (3) The initial examination fee may not exceed \$150
19 for building code administrators, plans examiners, or building
20 code inspectors.

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

27 Section 21. Section 468.631, Florida Statutes, is
28 amended to read:

29 468.631 Building Code Administrators and Inspectors
30 Fund.--The provisions of this part shall be funded through a
31 surcharge, to be assessed pursuant to s. 125.56(4) or s.

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

28 Section 22. Subsection (1) of section 468.633, Florida
29 Statutes, is amended to read:

30 468.633 Authority of local government.--

31

1 (1) Nothing in this part may be construed to restrict
2 the authority of local governments to require as a condition
3 of employment that building code administrators, plans
4 examiners, and building code inspectors possess qualifications
5 beyond the requirements for certification contained in this
6 part.

7 Section 23. Paragraph (a) of subsection (1) of section
8 112.3145, Florida Statutes, is amended to read:

9 112.3145 Disclosure of financial interests and clients
10 represented before agencies.--

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

13 (a) "Local officer" means:

14 1. Every person who is elected to office in any
15 political subdivision of the state, and every person who is
16 appointed to fill a vacancy for an unexpired term in such an
17 elective office.

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

26 3. Any person holding one or more of the following
27 positions: mayor; county or city manager; chief administrative
28 employee of a county, municipality, or other political
29 subdivision; county or municipal attorney; chief county or
30 municipal building code inspector; county or municipal water
31 resources coordinator; county or municipal pollution control

1 director; county or municipal environmental control director;
2 county or municipal administrator, with power to grant or deny
3 a land development permit; chief of police; fire chief;
4 municipal clerk; district school superintendent; community
5 college president; district medical examiner; or purchasing
6 agent having the authority to make any purchase exceeding the
7 threshold amount provided for in s. 287.017 for CATEGORY ONE,
8 on behalf of any political subdivision of the state or any
9 entity thereof.

10 Section 24. Subsection (3) of section 125.56, Florida
11 Statutes, is amended to read:

12 125.56 Adoption or amendment of building code;
13 inspection fees; inspectors; etc.--

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

19 Section 25. Paragraph (g) of subsection (5) of section
20 212.08, Florida Statutes, is amended to read:

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

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

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

30 1. Beginning July 1, 1995, building materials used in
31 the rehabilitation of real property located in an enterprise

1 zone shall be exempt from the tax imposed by this chapter upon
2 an affirmative showing to the satisfaction of the department
3 that the items have been used for the rehabilitation of real
4 property located in an enterprise zone. Except as provided in
5 subparagraph 2., this exemption inures to the owner, lessee,
6 or lessor of the rehabilitated real property located in an
7 enterprise zone only through a refund of previously paid
8 taxes. To receive a refund pursuant to this paragraph, the
9 owner, lessee, or lessor of the rehabilitated real property
10 located in an enterprise zone must file an application under
11 oath with the governing body or enterprise zone development
12 agency having jurisdiction over the enterprise zone where the
13 business is located, as applicable, which includes:

- 14 a. The name and address of the person claiming the
15 refund.
- 16 b. An address and assessment roll parcel number of the
17 rehabilitated real property in an enterprise zone for which a
18 refund of previously paid taxes is being sought.
- 19 c. A description of the improvements made to
20 accomplish the rehabilitation of the real property.
- 21 d. A copy of the building permit issued for the
22 rehabilitation of the real property.
- 23 e. A sworn statement, under the penalty of perjury,
24 from the general contractor licensed in this state with whom
25 the applicant contracted to make the improvements necessary to
26 accomplish the rehabilitation of the real property, which
27 statement lists the building materials used in the
28 rehabilitation of the real property, the actual cost of the
29 building materials, and the amount of sales tax paid in this
30 state on the building materials. In the event that a general
31 contractor has not been used, the applicant shall provide this

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

13 f. The identifying number assigned pursuant to s.
14 290.0065 to the enterprise zone in which the rehabilitated
15 real property is located.

16 g. A certification by the local building code
17 inspector that the improvements necessary to accomplish the
18 rehabilitation of the real property are substantially
19 completed.

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

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

27 2. This exemption inures to a city, county, or other
28 governmental agency through a refund of previously paid taxes
29 if the building materials used in the rehabilitation of real
30 property located in an enterprise zone are paid for from the
31 funds of a community development block grant or similar grant

1 or loan program. To receive a refund pursuant to this
2 paragraph, a city, county, or other governmental agency must
3 file an application which includes the same information
4 required to be provided in subparagraph 1. by an owner,
5 lessee, or lessor of rehabilitated real property. In addition,
6 the application must include a sworn statement signed by the
7 chief executive officer of the city, county, or other
8 governmental agency seeking a refund which states that the
9 building materials for which a refund is sought were paid for
10 from the funds of a community development block grant or
11 similar grant or loan program.

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

29 4. An application for a refund pursuant to this
30 paragraph must be submitted to the department within 6 months
31

1 after the rehabilitation of the property is deemed to be
2 substantially completed by the local building code inspector.

3 5. The provisions of s. 212.095 do not apply to any
4 refund application made pursuant to this paragraph. No more
5 than one exemption through a refund of previously paid taxes
6 for the rehabilitation of real property shall be permitted for
7 any one parcel of real property. No refund shall be granted
8 pursuant to this paragraph unless the amount to be refunded
9 exceeds \$500. No refund granted pursuant to this paragraph
10 shall exceed the lesser of 97 percent of the Florida sales or
11 use tax paid on the cost of the building materials used in the
12 rehabilitation of the real property as determined pursuant to
13 sub-subparagraph 1.e. or \$5,000, or, if no less than 20
14 percent of the employees of the business are residents of an
15 enterprise zone, excluding temporary and part-time employees,
16 the amount of refund granted pursuant to this paragraph shall
17 not exceed the lesser of 97 percent of the sales tax paid on
18 the cost of such building materials or \$10,000. A refund
19 approved pursuant to this paragraph shall be made within 30
20 days of formal approval by the department of the application
21 for the refund.

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

26 7. The department shall deduct an amount equal to 10
27 percent of each refund granted under the provisions of this
28 paragraph from the amount transferred into the Local
29 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
30 s. 212.20 for the county area in which the rehabilitated real
31

1 property is located and shall transfer that amount to the
2 General Revenue Fund.

3 8. For the purposes of the exemption provided in this
4 paragraph:

5 a. "Building materials" means tangible personal
6 property which becomes a component part of improvements to
7 real property.

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

10 c. "Rehabilitation of real property" means the
11 reconstruction, renovation, restoration, rehabilitation,
12 construction, or expansion of improvements to real property.

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

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

17 Section 26. Paragraph (a) of subsection (2) of section
18 252.924, Florida Statutes, is amended to read:

19 252.924 Party state responsibilities.--

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

28 (a) A description of the emergency service function
29 for which assistance is needed, such as, but not limited to,
30 fire services, law enforcement, emergency medical,
31 transportation, communications, public works and engineering,

1 building code inspection, planning and information assistance,
2 mass care, resource support, health and medical services, and
3 search and rescue.

4 Section 27. Paragraph (j) of subsection (3) of section
5 404.056, Florida Statutes, is amended to read:

6 404.056 Environmental radiation standards and
7 programs; radon protection.--

8 (3) CERTIFICATION.--

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

13 1. Requirements for measurement devices and
14 measurement procedures, including the disclosure of mitigation
15 materials, systems, and other mitigation services offered.

16 2. The identification of certified specialists and
17 technicians employed by the business and requirements for
18 specialist staffing and duties.

19 3. The analysis of measurement devices by proficient
20 analytical service providers.

21 4. Requirements for a quality assurance and quality
22 control program.

23 5. The disclosure of client measurement reporting
24 forms and warranties and operating instructions for mitigation
25 systems.

26 6. Requirements for radon services publications and
27 the identification of the radon business certification number
28 in advertisements.

29 7. Requirements for a worker health and safety
30 program.

31 8. Requirements for maintaining radon records.

1 9. The operation of branch office locations.

2 10. Requirements for supervising subcontractors who
3 install mitigation systems.

4 11. Requirements for building code inspections and
5 evaluation and standards for the design and installation of
6 mitigation systems.

7 12. Prescribing conditions of mitigation measurements.

8 Section 28. Section 471.045, Florida Statutes, is
9 amended to read:

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

29 Section 29. Section 481.222, Florida Statutes, is
30 amended to read:

31

1 481.222 Architects performing building code inspector
2 duties.--Notwithstanding any other provision of law, a person
3 who is currently licensed to practice as an architect under
4 this part may provide building code inspection services
5 described in s. 468.603(6) and (7) to a local government or
6 state agency upon its request, without being certified by the
7 Florida Building Code Administrators and Inspectors Board
8 under part XII of chapter 468. With respect to the performance
9 of such building code inspection services, the architect is
10 subject to the disciplinary guidelines of this part and s.
11 468.621(1)(c)-(h). Any complaint processing, investigation,
12 and discipline that arise out of an architect's performance of
13 building code inspection services shall be conducted by the
14 Board of Architecture and Interior Design rather than the
15 Florida Building Code Administrators and Inspectors Board. An
16 architect may not perform plans review as an employee of a
17 local government upon any job that the architect or the
18 architect's company designed.

19 Section 30. Paragraph (b) of subsection (18) of
20 section 489.103, Florida Statutes, is amended to read:

21 489.103 Exemptions.--This part does not apply to:

22 (18) Any one-family, two-family, or three-family
23 residence constructed by Habitat for Humanity International,
24 Inc., or its local affiliates. Habitat for Humanity
25 International, Inc., or its local affiliates, must:

26 (b) Obtain all required building code inspections.

27 Section 31. Section 725.06, Florida Statutes, is
28 amended to read:

29 725.06 Construction contracts; limitation on
30 indemnification.--

31

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

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

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

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

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

6 Section 32. Subsections (1) and (3) of section
7 471.025, Florida Statutes, are amended to read:

8 471.025 Seals.--

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

26 (3) No registrant shall affix or permit to be affixed
27 his or her seal, name, or digital signature to any plan,
28 specification, drawing, final bid document, or other document
29 that ~~which~~ depicts work which he or she is not licensed to
30 perform or which is beyond his or her profession or specialty
31 therein.

1 Section 33. Paragraphs (j), (k), and (l) of subsection
2 (3) of section 489.105, Florida Statutes, are amended to read:

3 489.105 Definitions.--As used in this part:

4 (3) "Contractor" means the person who is qualified
5 for, and shall only be responsible for, the project contracted
6 for and means, except as exempted in this part, the person
7 who, for compensation, undertakes to, submits a bid to, or
8 does himself or herself or by others construct, repair, alter,
9 remodel, add to, demolish, subtract from, or improve any
10 building or structure, including related improvements to real
11 estate, for others or for resale to others; and whose job
12 scope is substantially similar to the job scope described in
13 one of the subsequent paragraphs of this subsection. For the
14 purposes of regulation under this part, "demolish" applies
15 only to demolition of steel tanks over 50 feet in height;
16 towers over 50 feet in height; other structures over 50 feet
17 in height, other than buildings or residences over three
18 stories tall; and buildings or residences over three stories
19 tall. Contractors are subdivided into two divisions, Division
20 I, consisting of those contractors defined in paragraphs
21 (a)-(c), and Division II, consisting of those contractors
22 defined in paragraphs (d)-(q):

23 (j) "Commercial pool/spa contractor" means a
24 contractor whose scope of work involves, but is not limited
25 to, the construction, repair, and servicing of any swimming
26 pool, or hot tub or spa, whether public, private, or
27 otherwise, regardless of use. The scope of work includes,
28 ~~including the~~ installation, repair, or replacement of existing
29 equipment, any cleaning or equipment sanitizing which requires
30 at least a partial disassembling, excluding filter changes,
31 and ~~or~~ the installation of new pool/spa equipment, interior

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

28 (k) "Residential pool/spa contractor" means a
29 contractor whose scope of work involves, but is not limited
30 to, the construction, repair, and servicing of any residential
31 swimming pool, or hot tub or spa, regardless of use. The scope

1 of work includes, including the installation, repair, or
2 replacement of existing equipment, any cleaning or equipment
3 sanitizing which requires at least a partial disassembling,
4 excluding filter changes, and ~~or~~ the installation of new
5 pool/spa equipment, interior finishes, the installation of
6 package pool heaters, the installation of all perimeter piping
7 and filter piping, and the construction of equipment rooms or
8 housing for pool/spa equipment, as necessary. The scope of
9 ~~such work includes layout, excavation, operation of~~
10 ~~construction pumps for dewatering purposes, steelwork,~~
11 ~~installation of light niches, construction of floors,~~
12 ~~guniting, fibreglassing, installation of tile and coping,~~
13 ~~installation of all perimeter and filter piping, installation~~
14 ~~of all filter equipment and chemical feeders of any type,~~
15 ~~plastering of the interior, construction of decks,~~
16 ~~installation of housing for pool equipment, and installation~~
17 ~~of package pool heaters~~ and also includes the scope of work of
18 a swimming pool/spa servicing contractor. ~~However,~~ The scope
19 of such work does not include direct connections to a sanitary
20 sewer system or to potable water lines. The installation,
21 construction, modification, or replacement of equipment
22 permanently attached to and associated with the pool or spa
23 for the purpose of water treatment or cleaning of the pool or
24 spa requires licensure; however, the usage of such equipment
25 for the purposes of water treatment or cleaning shall not
26 require licensure unless the usage involves construction,
27 modification, or replacement of such equipment. Water
28 treatment that does not require such equipment does not
29 require a license. In addition, a license shall not be
30 required for the cleaning of the pool or spa in any way that
31

1 does not affect the structural integrity of the pool or spa or
2 its associated equipment.

3 (1) "Swimming pool/spa servicing contractor" means a
4 contractor whose scope of work involves, but is not limited
5 to, the repair and ~~the~~ servicing ~~and repair~~ of any swimming
6 pool, or hot tub or spa, whether public or private, or
7 otherwise, regardless of use. The scope of ~~such~~ work includes
8 the repair or ~~may include any necessary piping and repairs,~~
9 ~~replacement and repair~~ of existing equipment, any cleaning or
10 equipment sanitizing which requires at least a partial
11 disassembling, excluding filter changes, and the ~~or~~
12 installation of new pool/spa ~~additional~~ equipment, interior
13 refinishing, the reinstallation or addition of pool heaters,
14 the ~~as necessary.~~ The scope of ~~such work includes the~~
15 ~~reinstallation of tile and coping, repair or~~ and replacement
16 of all perimeter piping and filter piping, the repair of
17 equipment rooms or housing for pool/spa equipment, and the
18 substantial or complete draining of a swimming pool, or hot
19 tub or spa, for the purpose of any repair or renovation. The
20 scope of such work does not include direct connections to a
21 sanitary sewer system or to potable water lines ~~filter~~
22 ~~equipment, and chemical feeders of any type, replastering,~~
23 ~~reconstruction of decks, and reinstallation or addition of~~
24 ~~pool heaters.~~ The installation, construction, modification,
25 substantial or complete disassembly, or replacement of
26 equipment permanently attached to and associated with the pool
27 or spa for the purpose of water treatment or cleaning of the
28 pool or spa requires licensure; however, the usage of such
29 equipment for the purposes of water treatment or cleaning
30 shall not require licensure unless the usage involves
31 construction, modification, substantial or complete

1 disassembly, or replacement of such equipment. Water treatment
2 that does not require such equipment does not require a
3 license. In addition, a license shall not be required for the
4 cleaning of the pool or spa in any way that does not affect
5 the structural integrity of the pool or spa or its associated
6 equipment.

7 Section 34. Section 489.118, Florida Statutes, is
8 amended to read:

9 489.118 Certification of registered contractors;
10 grandfathering provisions.--The board shall, upon receipt of a
11 completed application and appropriate fee, issue a certificate
12 in the appropriate category to any contractor registered under
13 this part who makes application to the board and can show that
14 he or she meets each of the following requirements:

15 (1) Currently holds a valid registered local license
16 in one of the contractor categories defined in s.
17 489.105(3)(a)-(p).

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

30 (3) Has at least 5 years of experience as a contractor
31 in that contracting category, or as an inspector or building

1 administrator with oversight over that category, at the time
2 of application. For contractors, only time periods in which
3 the contractor license is active and the contractor is not on
4 probation shall count toward the 5 years required by this
5 subsection.

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

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

12

13 Applicants wishing to obtain a certificate pursuant to this
14 section must make application by November 1, 2004.

15 Section 35. Section 489.128, Florida Statutes, is
16 amended to read:

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

25 Section 36. Subsections (12) and (15) of section
26 489.503, Florida Statutes, are amended to read:

27 489.503 Exemptions.--This part does not apply to:

28 (12) Any person as defined and licensed under chapter
29 527 while engaged in work regulated under that chapter.

30 (15) The provision, installation, testing, routine
31 maintenance, factory-servicing, or monitoring of a personal

1 emergency response system, as defined in s. 489.505, by an
2 authorized person who:

3 (a) Is an employee of, or a volunteer supervised by an
4 employee of, a health care facility licensed by the Agency for
5 Health Care Administration;

6 (b) Performs services for the Department of Elderly
7 Affairs;

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

10 (d) Is an employee of or an authorized representative
11 or distributor for the producer of the personal emergency
12 response system being monitored.

13 Section 37. Subsection (26) of section 489.505,
14 Florida Statutes, is amended to read:

15 489.505 Definitions.--As used in this part:

16 (26) "Personal emergency response system" means any
17 device which is simply plugged into a telephone jack or
18 electrical receptacle and which is designed to initiate a
19 telephone call to a person who responds to, or has a
20 responsibility to determine the proper response to, personal
21 emergencies, but does not include hard-wired or wireless alarm
22 systems designed to detect intrusion or fire.

23 Section 38. Section 489.507, Florida Statutes, is
24 amended to read:

25 489.507 Electrical Contractors' Licensing Board.--

26 (1) There is created in the department the Electrical
27 Contractors' Licensing Board. The board shall consist of 11
28 members, 7 of whom shall be certified electrical contractors,
29 2 of whom shall be consumer members who are not, and have
30 never been, electrical contractors or members of any closely
31 related profession or occupation, and 2 of whom shall be

1 certified alarm system contractors I. Members shall be
2 appointed for 4-year terms.

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

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

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

18 (5) Any proposed board rule which has not been
19 modified to remove proposed committee objections of the
20 Administrative Procedures Committee must receive approval from
21 the department prior to filing the rule with the Department of
22 State for final adoption. The department may repeal any rule
23 enacted by the board which has taken effect without having met
24 proposed committee objections of the Administrative Procedures
25 Committee.

26 (6)~~(5)~~ The Electrical Contractors' Licensing Board and
27 the Construction Industry Licensing Board shall each appoint a
28 committee to meet jointly at least twice a year.

29 Section 39. Section 489.514, Florida Statutes, is
30 amended to read:

31

1 489.514 Certification for registered contractors;
2 grandfathering provisions.--

3 (1) The board shall, upon receipt of a completed
4 application, and appropriate fee, and proof of compliance with
5 the provisions of this section, issue: a certification in the
6 appropriate category to

7 (a) To an applying registered electrical contractor a
8 certificate as an electrical contractor, as defined in s.
9 489.505(12); or

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

13 (c) To an applying registered electrical speciality
14 contractor a certificate in the matching electrical speciality
15 contractor category, as defined in s. 489.505(19).

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

20 (a)(1) Currently holds a valid registered local
21 license in the category of electrical contractor, or alarm
22 system contractor, or electrical speciality contractor.

23 (b)(2) Has, for that category, passed a written,
24 proctored examination that the board finds to be substantially
25 similar to the examination required to be licensed as a
26 certified contractor under this part. For purposes of this
27 subsection, a written, proctored examination such as that
28 produced by the National Assessment Institute, Block and
29 Associates, ~~or~~ NAI/Block, Experior Assessments, Professional
30 Testing, Inc., or Assessment Systems, Inc., shall be
31 considered to be substantially similar to the examination

1 required to be licensed as a certified contractor. The board
2 may not impose or make any requirements regarding the nature
3 or content of these cited examinations.

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

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

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

17 (3) An applicant must make application by November 1,
18 2004, to be licensed pursuant to this section.

19 Section 40. Paragraph (e) is added to subsection (2)
20 of section 489.5185, Florida Statutes, to read:

21 489.5185 Fire alarm system agents.--

22 (2)

23 (e) Persons who perform only monitoring are not
24 required to complete the training required for fire alarm
25 system agents.

26 Section 41. Subsection (1) of section 489.522, Florida
27 Statutes, is amended to read:

28 489.522 Qualifying agents; responsibilities.--

29 (1)(a) A qualifying agent is a primary qualifying
30 agent unless he or she is a secondary qualifying agent under
31 this section. All primary qualifying agents for a business

1 organization are jointly and equally responsible for
2 supervision of all operations of the business organization;
3 for all field work at all sites; and for financial matters,
4 both for the organization in general and for each specific
5 job.

6 (b) When a qualifying agent ceases to qualify a
7 business, the qualifying agent must transfer the license to
8 another business, qualify himself or herself as an individual,
9 or place the license in an inactive status within 60 days
10 after termination of the qualifying status with the business.

11 Section 42. Subsection (5) of section 489.531, Florida
12 Statutes, is renumbered as subsection (6) and amended, present
13 subsections (3), (4), (6), and (7) are renumbered as
14 subsections (4), (5), (7), and (8), respectively, and a new
15 subsection (3) is added to said section, to read:

16 489.531 Prohibitions; penalties.--

17 (1) A person may not:

18 (a) Practice contracting unless the person is
19 certified or registered;

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

26 (c) Present as his or her own the certificate or
27 registration of another;

28 (d) Use or attempt to use a certificate or
29 registration that has been suspended, revoked, or placed on
30 inactive or delinquent status;

31

1 (e) Employ persons who are not certified or registered
2 to practice contracting;

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

5 (g) Operate a business organization engaged in
6 contracting after 60 days following the termination of its
7 only qualifying agent without designating another primary
8 qualifying agent;

9 (h) Conceal information relative to violations of this
10 part;

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

14 (j) Willfully or deliberately disregard or violate any
15 municipal or county ordinance relating to uncertified or
16 unregistered contractors.

17 (3)(a) Any unlicensed person who violates any of the
18 provisions of subsection (1) commits a misdemeanor of the
19 first degree, punishable as provided in s. 775.082 or s.
20 775.083.

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

25 (c) Any unlicensed person who commits a violation of
26 subsection (1) during the existence of a state of emergency
27 declared by executive order of the Governor commits a felony
28 of the third degree, punishable as provided in s. 775.082 or
29 s. 775.083.

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1 The remedies set forth in this subsection are not exclusive
2 and may be imposed in addition to the remedies set forth in s.
3 489.533(2).

4 (6)(5)(a) The local governing body of a county or
5 municipality, or its local enforcement body, is authorized to
6 enforce the provisions of this part as well as its local
7 ordinances against ~~locally licensed or~~ registered contractors,
8 as appropriate. The local jurisdiction enforcement body may
9 conduct disciplinary proceedings against a ~~locally licensed or~~
10 registered contractor and may require restitution or impose a
11 suspension or revocation of the local license or a fine not to
12 exceed \$5,000, or a combination thereof, against the ~~locally~~
13 ~~licensed or~~ registered contractor, according to ordinances
14 which a local jurisdiction may enact. In addition, the local
15 jurisdiction may assess reasonable investigative and legal
16 costs for the prosecution of the violation against the
17 registered contractor ~~violation~~, according to such ordinances
18 as the local jurisdiction may enact.

19 (b) In addition to any action the local jurisdiction
20 enforcement body may take against the individual's local
21 license, and any fine the local jurisdiction may impose, the
22 local jurisdiction enforcement body shall issue a recommended
23 penalty for board action. This recommended penalty may
24 include a recommendation for no further action or a
25 recommendation for suspension, revocation, or restriction of
26 the registration or imposition of a fine to be levied by the
27 board, or a combination thereof. The local jurisdiction
28 enforcement body shall inform the disciplined registered
29 contractor and the complainant of the local ~~license~~ penalty
30 imposed, the board penalty recommended, the rights to appeal,
31 and the consequences should the registered contractor decide

1 not to appeal. The local jurisdiction enforcement body shall,
2 upon having reached adjudication or having accepted a plea of
3 nolo contendere, immediately inform the board of its action
4 and the recommended board penalty.

5 (c) The department, the disciplined registered
6 contractor, or the complainant may challenge the local
7 jurisdiction enforcement body's recommended penalty for board
8 action to the Electrical Contractors' Licensing Board. A
9 challenge shall be filed within 60 days after the issuance of
10 the recommended penalty to the board. If challenged, there is
11 a presumptive finding of probable cause and the case may
12 proceed without the need for a probable cause hearing.

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

24 (e) The department may investigate any complaint which
25 is made with the department. However, if the department
26 determines that the complaint against a registered contractor
27 is for an action which a local jurisdiction enforcement body
28 has investigated and reached adjudication or accepted a plea
29 of nolo contendere, including a recommended penalty to the
30 board, the department shall not initiate prosecution for that
31

1 action, unless the secretary has initiated summary procedures
2 pursuant to s. 455.225(8).

3 (f) Nothing in this subsection shall be construed to
4 allow local jurisdictions to exercise disciplinary authority
5 over certified contractors.

6 Section 43. Section 489.532, Florida Statutes, is
7 amended to read:

8 489.532 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 his or her license in accordance with this part shall
13 be unenforceable in law, and the court in its discretion may
14 extend this provision to equitable remedies. ~~However, in the~~
15 ~~event the contractor obtains or reinstates the license the~~
16 ~~provisions of this section shall no longer apply.~~

17 Section 44. Subsections (14) through (26) of section
18 633.021, Florida Statutes, are renumbered as subsections (15)
19 through (27), and a new subsection (14) is added to said
20 section, to read:

21 633.021 Definitions.--As used in this chapter:

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

27 Section 45. Subsection (8) of section 489.537, Florida
28 Statutes, is repealed.

29 Section 46. Subsections (21), (22), and (23) of
30 section 489.505, Florida Statutes, are amended to read:

31 489.505 Definitions.--As used in this part:

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

7 (22) "Registered alarm system contractor II" means an
8 alarm system contractor whose business includes all types of
9 alarm systems, other than fire, for all purposes and who is
10 registered with the department pursuant to s. 489.513 ~~or s.~~
11 ~~489.537(8)~~. A registered alarm system contractor II may
12 contract only in the jurisdiction for which his or her
13 registration is issued.

14 (23) "Registered residential alarm system contractor"
15 means an alarm system contractor whose business is limited to
16 burglar alarm systems in single-family residential, quadruplex
17 housing, and mobile homes of a residential occupancy class and
18 who is registered with the department pursuant to s. 489.513
19 ~~or s. 489.537(8)~~. The board shall define "residential
20 occupancy class" by rule. A registered residential alarm
21 system contractor may contract only in the jurisdiction for
22 which his or her registration is issued.

23 Section 47. Subsection (2) of section 489.515, Florida
24 Statutes, is amended to read:

25 489.515 Issuance of certificates; registrations.--

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

30 Section 48. Except as otherwise provided herein, this
31 act shall take effect July 1, 2000.