

By Senator Clary

4-594-03

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A bill to be entitled
An act relating to contracting; amending s.
489.128, F.S.; limiting the application of
provisions that relate to the unenforceability
of certain contracts performed by unlicensed
contractors; repealing s. 489.532, F.S.,
relating to contracts performed by unlicensed
contractors; providing an effective date.

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

Section 1. Section 489.128, Florida Statutes, is
amended to read:

489.128 Contracts performed by unlicensed contractors
unenforceable.--

(1) As a matter of public policy, contracts entered
into on or after October 1, 1990, and performed in full or in
part by any contractor who fails to obtain or maintain
licensure as required by a license in accordance with this
chapter part shall be unenforceable in law by the unlicensed
contractor. This section does not eliminate the equitable
rights of any party, and may only be invoked by a party in
direct privity of contract with the unlicensed contractor or
by a payment bond surety against whom an unlicensed contractor
has asserted a claim. Payment bond rights do not exist in
favor of any contractor who does not obtain or maintain
licensure. A contract rendered unenforceable by this section
does not render unenforceable any other contract or the
obligations of a surety who has provided a bond on behalf of
the unlicensed contractor. This section does not apply to any

1 licensure requirements except those established by this
2 chapter.~~or in equity.~~

3 (2) This section applies retroactively to contracts
4 entered into on or after October 1, 1990.

5 Section 2. Section 489.532, Florida Statutes, is
6 repealed.

7 Section 3. This act shall take effect July 1, 2003.

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SENATE SUMMARY

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Revises provisions relating to the unenforceability of
12 contracts performed by unlicensed contractors to limit
the application to persons in direct privity with the
13 unlicensed contractor. Repeals a duplicate provision.

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