

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1207 CS Electrical and Alarm System Contracting
SPONSOR(S): Sansom
TIED BILLS: **IDEN./SIM. BILLS:** SB 982

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	18 Y, 0 N, w/CS	Livingston	Liepshutz
2) Criminal Justice Committee			
3) Commerce Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Electrical Contractors Licensing Board (ECLB) within the Department of Business and Professional Regulation (DBPR) regulates electrical contractors and fire alarm system contractors, and their employees. The Division of State Fire Marshal (DSFM) within the Department of Financial Services (DFS) may inspect any building or fire alarm system regarding the issues of fire safety, prevention, and control.

The bill provides that the exemption from regulation for employees of the telecommunications companies, does not apply to contractors performing the same work. The bill includes within the exemption employees of a manufacturer of a monitored personal emergency response system. However, it deletes the exemption for an authorized representative or distributor.

The bill amends the definitions to define the scope of activities included within contractor classifications. The bill establishes the qualifications for registration as a contractor.

The bill amends the definition of "monitoring" to provide that the electric or electronic signal may originate from any structure and that the signal may also originate from outside the state, regardless of whether those signals are relayed through a jurisdiction outside the state. It also provides that the signal may be produced by an access-control system. The bill amends the definition of "burglar alarm system agent" to include inspecting and selling of intrusion or burglar alarm systems.

The bill exempts an audible fire alarm signal from the requirement in current law that every alarm system installed by a licensed contractor must have a device that automatically terminates the audible signal within 15 minutes of activation. The bill requires the central monitoring station to employ call-verification methods for the premises generating the alarm signal if the first call is not answered.

The bill provides that a municipality or county may regulate the quality and character of work but may not subject certified alarm system contractor to any additional certification or licensure requirements that are not required by statute.

The bill is not anticipated to have a significant fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles. The DBPR reports that the fiscal impact is "none, the proposed changes appear to be an attempt to clarify and strengthen existing regulations."

B. EFFECT OF PROPOSED CHANGES:

Present situation

The DSFM has limited jurisdiction over alarm system contractors and certified unlimited electrical contractors. The DSFM has authority to order an alarm system contractor to take corrective action to bring alarm systems into compliance with the required fire safety standards in ch. 633, F.S. The DBPR and the ECLB may also participate in these proceedings, at their discretion, but not as a party.

Electrical and alarm system contractors are regulated pursuant to part II, of ch. 489, F.S. Under part II of ch. 489, F.S., the board licenses and disciplines alarm system contractors. Part of the grounds for disciplinary action by the board includes when the alarm system contractor or certified electrical contractor violates ch. 633, F.S., or the rules of the State Fire Marshal. The DBPR also has authority to issue stop-work orders for all work on a project if there is cause to believe that work is being performed by an unlicensed alarm system contractor or electrical alarm system contractor.

Section 489.513, F.S., requires registration in the proper classification of any person engaged in the business of contracting, unless he or she is certified. A registered contractor may contract only in the jurisdiction for which his or her registration is issued. Certification permits the contractor to engage in the business of contracting in any jurisdiction in the state.

Section 489.505, F.S., defines various terms, including:

"Alarm system contractor" to mean a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, including, but not limited to, all types of alarm systems for all purposes;

"Certified alarm system contractor" to mean an alarm system contractor who possesses a certificate of competency issued by the department. The scope of certification is limited to alarm circuits originating in the alarm control panel and equipment governed by the applicable provisions of Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition. The scope of certification for alarm system contractors also includes the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 77 volts, when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks; however, this provision governing the scope of certification does not create any mandatory licensure requirement.

"Registered electrical contractor" to mean an electrical contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. A registered electrical contractor may contract only in the jurisdiction for which his or her registration is issued.

"Monitoring" to mean to receive electrical or electronic signals, originating from any building within the state, produced by any security, medical, fire, or burglar alarm, closed circuit television camera, or related or similar protective system and to initiate a response thereto. A person shall not have committed the act of monitoring if:

- (a) The person is an occupant of, or an employee working within, protected premises;
- (b) The person initiates emergency action in response to hearing or observing an alarm signal;
- (c) The person's action is incidental to his or her primary responsibilities; and
- (d) The person is not employed in a proprietary monitoring facility, as defined by the National Fire Protection Association pursuant to rule adopted under chapter 633.

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

Section 489.503(14), F.S., exempts the installation of, repair of, alteration of, addition to, or design of low voltage telecommunications circuits and equipment from regulation under part II of ch. 489, F.S.,. This exemption applies only to work done at the request of a telecommunications company's customer, required to complete phone service incidental to the provision of telecommunication service, and not subject to competitive bid.

Section 489.503(15)(d), F.S., exempts an employee or an authorized representative or distributor for the producer of a monitored personal emergency response system from regulation under part II of ch. 489, F.S. The scope of this exemption applies to persons engaged in the provision, installation, testing, routine maintenance, factory-servicing, or monitoring of a monitored personal emergency response system.

Section 489.529, F.S., requires that all residential or commercial intrusion/burglary alarms that have central monitoring must make a verification call to the premises generating the alarm signal before alarm monitor personnel contact law enforcement.

Effect of proposed changes

The bill provides that the exemption for telecommunications companies does not apply to contractors performing that same work but are not employees of the company. Such persons, if not certified under ch. 364, F.S., as a telecommunications company must be certified under part II of ch. 489, F.S. There are currently no provisions to certify a contractor under ch. 364, F.S. The bill amends s. 489.503(15)(d), to include within the exemption from regulation under part II of ch. 489, F.S., employees of a manufacturer of a monitored personal emergency response system. However, it deletes the exemption for an authorized representative or distributor.

The bill amends the definition of an "alarm system contractor" to provide that the term includes any person, firm, or corporation that engages in the business of alarm system contracting under an express or implied contract. It includes persons, firms, or corporations that undertake, offer to undertake, purport to have the authority to undertake, or submit bids to engage in alarm contracting.

The bill amends the definition of "certified alarm system contractor" in s. 489.505(7), F.S., to include inspection and monitoring within the scope of the certification. It also increases from 77 volts to 98 volts the voltage limitation applicable to the activities that a certified alarm system contractor may perform. The bill also deletes the provision in s. 489.505(7), F.S., that the scope of certification does not create a mandatory licensure requirement. The bill amends the definition of "burglar alarm system agent" in s. 489.505(25), F.S., to include inspecting and selling of intrusion or burglar alarm systems.

The bill amends the definition of monitoring in s. 489.505(27), F.S., to provide that the electric or electronic signal may originate from any structure in place of the term "building" used in current law.

The signal may also originate from outside the state, regardless of whether those signals are relayed through a jurisdiction outside the state. It also provides that the signal may be produced by an access-control system. Such a system may use an access card or a punch code for access. The bill further provides that the listed systems must be intended by design to initiate a response.

The bill amends s. 489.513, F.S. to establish required qualifications for registration as a contractor under part II of ch. 489, F.S. To be registered, a person must be at least 18 years of age and of good moral character, which the bill defines as having a personal history of honesty, fairness, and respect for the rights of others and for state and federal law.

The bill specifies that the board may determine that an applicant does not satisfy the good moral character requirement only if there is a substantial connection between the lack of good moral character of the individual and the professional responsibilities of a registered contractor and the board's finding of a lack of good moral character is supported by clear and convincing evidence.

If an individual is found unqualified because of a lack of good moral character, the board must furnish the individual with a statement containing the findings of the board, a complete record of the evidence upon which the finding is based, and a notice of the individual's rights to a rehearing and appeal.

The bill amends s. 489.529, F.S., to require the central monitoring station to employ call-verification methods for the premises generating the alarm signal if the first call is not answered. Section 489.530, F.S., is amended to exempt an audible fire alarm signal from the requirement that every alarm system installed by a licensed contractor must have a device that automatically terminates the audible signal within 15 minutes of activation. This exemption applies whether the system is installed voluntarily or as a requirement of an adopted code.

The bill amends s. 489.537(3), F.S., to provide that a certified alarm system contractor is not subject to any additional certification or licensure requirements that are not required by part II of ch. 489, F.S. Current law provides that part II of ch. 489, F.S., does not limit the power of a municipality or county to regulate the quality and character of work performed by contractors. Current law allows a municipality or county to use a system of permits, fees, and inspections designed to secure compliance, and aid in the implementation of, state and local building codes.

Some local governments require that contractors be certified by Underwriters Laboratories. According to industry representatives, such certification may cost up to \$10,000 or more, depending on the number of customers that a contractor has. The board issued a letter to the City of Boca Raton, which has such an ordinance, advising the city that the board believed that such an ordinance conflicts with part II of ch. 489, F.S., and that the ordinance encroaches on the license authority of the board that is preempted by part II of ch. 489, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 489.503 (14), F.S., to provide that the exemption for telecommunications companies does not apply to persons performing that same work.

Section 2. Amends s. 489.505(2), F.S., to amend various definitions.

Section 3. Amends s. 489.513, F.S. to establish required qualifications for registration as a contractor under part II of ch. 489, F.S.

Section 4. Amends s. 489.529, F.S., to require the central monitoring station to employ call-verification methods for the premises generating the alarm signal if the first call is not answered.

Section 5. Amends s. 489.530, F.S., to exempt an audible fire alarm signal from certain requirements.

Section 6. Amends s. 489.537(3), F.S., to provide that a certified alarm system contractor is not subject to additional certification or licensure requirements.

Section 7. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not anticipated to be significant.

D. FISCAL COMMENTS:

The DBPR reports that the fiscal impact is “none, the proposed changes appear to be an attempt to clarify and strengthen existing regulations.”

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Business Regulation Committee adopted one amendment on April 6, 2005 and passed the bill as a CS.

The amendment requires that persons (contractors) who are not employees of telecommunications companies must be licensed under part II on chapter 489, F.S. relating to electrical and alarm system licensing.