

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Regulated Industries Committee

BILL: SB 792

SPONSOR: Senator Haridopolos

SUBJECT: Construction Contracting/Seals

DATE: March 8, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides the Department of Business and Professional Regulation’s Board of Architecture and Interior Design and Board of Landscape Architecture with the authority to prescribe by rule the authority to electronically sign, seal, or send the final plans, specifications, or reports prepared or issued by a registered architects, interior designers, and landscape architects. The bill makes it unlawful to sign and seal any final plan, specification, or report if the certificate of registration is expired, suspended, or revoked.

The bill provides that persons who perform the work of servicing, repairing, recharging, hydrotesting, installing, or inspecting all types of pre-engineered fire extinguishing systems¹ are exempt from regulation under Part I of ch. 489, F.S.

The bill also amends the definitions of the terms “class A air conditioning contractor” and “class B air conditioning contractor” to allow them to disconnect or reconnect liquefied petroleum or natural gas appliances. The definition of “mechanical contractors” is also amended to allow them to perform work relating to liquefied petroleum gas lines within buildings and the definition of and “plumbing contractors” is amended to allow installation of liquefied petroleum gas and related venting lines.

This bill substantially amends the following sections of the Florida Statutes: 481.221, 481.321, 489.103 and 489.105.

¹ Sections 633.061(1)(d) and 633.061(2)(b), F.S.

II. Present Situation:

Currently the Board of Architecture and Interior Design prescribes, by rule distinctively different seals to be used by registered architects and interior designers. For architects, the seal is an impression-type seal and all final construction drawings, plans, specifications, or reports prepared or issued by the registered architect and being filed for public record shall bear the signature and seal of the registered architect who prepared or approved the document and the date which they were sealed.²

Interior Designers must obtain a seal prescribed by the board and all drawings, plans, specifications, or reports prepared or issued by the registered interior designer and being filed for public record shall bear the signature and seal of the registered interior designer who prepared or approved the document and the date on which they were sealed.

The Board of Landscape Architecture prescribes by rule, a form of seal to be used by a landscape architect who holds a valid certificate of registration. The landscape architect uses the seal to seal plans, specifications, or reports. The seal is an impression-type metal seal and the landscape architect's signature, date, and seal constitute evidence of the authenticity of those plans, specifications, or reports to which they are affixed.³

Section 633.061, F.S. makes it unlawful for any organization or individual to engage in the business of servicing, repairing, recharging, testing, marking, inspecting, installing or hydrotesting any fire extinguisher or pre-engineered system in the state unless licensed by the State Marshal under the provisions of ch. 633, F.S.

The regulation of construction contracting is governed by part I of ch. 489, F.S., and is administered by the Construction Industry Licensing Board within the Department of Business and Professional Regulation. Contractors are divided into Division I and II categories. Division I contractors include general, building, and residential contractors. Division II contractors are those contractors typically referred to as "subcontractors" that include professions such as plumbing, mechanical, and air-conditioning contracting.

Section 489.103, F.S. provides for exemptions to part I of chapter 489, F.S. Section 489.105(3), F.S., sets forth the scope-of-work definitions for Division I and II contractors. The definitions for the terms "class A air-conditioning", "class B air-conditioning" exclude any work relating to the installation of natural gas and liquefied petroleum gas. The definitions of "mechanical," and "plumbing" contractors specifically exclude any work relating to the installation of liquefied petroleum (LP) gas lines. However, mechanical and plumbing contractors, are permitted to perform work within the scope of their license related to natural gas. Prior to the 2003 Legislative Session, LP gas dealers and installers were precluded from performing any work associated with the installation of natural gas lines. However, s. 527.01, F.S., was amended in the 2003 legislative session⁴, to provide that LP gas dealers and installers may install, service, alter, or modify any apparatus, piping, tubing, or equipment for the use of natural gas.

² Rule 61G1-16.002, F.A.C.

³ Rule 61G10-11.010, F.A.C.

⁴ Chapter 2003-132 L.O.F.

The Electronic Signature Act of 1996, which includes ss, 668,001-006, F.S. was enacted as a means to (1) facilitate economic development and efficient delivery of government services by means of reliable electronic messages; (2) enhance public confidence in the use of electronic signatures; (3) minimize the incidence of forged electronic signatures and fraud in electronic commerce; (4) foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to writings in any electronic medium; and assure that proper management oversight and accountability are maintained for agency-conducted electronic commerce.⁵ The Act provides that electronic signatures have the same force and effect as a written signature and control processes and procedure shall be adopted by the head of each agency to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce.⁶

III. Effect of Proposed Changes:

Section 1. Section 481.221, F.S. is amended to provide that the board of architecture may prescribe by rule one or more forms of seals to be used by registered architects holding valid certificates of registration. It provides that each registered architect obtain one seal approved by board rule and may register the approved seal electronically in accordance with ss. 668.001-668.006, F.S. Final plans, specifications, or reports prepared or issued by a registered architect may be transmitted electronically and may be signed by the registered architect, dated, and sealed electronically with the seal in accordance with ss. 668.001-668.006, F.S. It deletes the requirement for an “impression type” metal seal.

It provides that for interior designers, the board shall adopt by rule the distinctly different seals to be used by registered interior designers holding valid certificates of registration. Final plans, specifications, or reports prepared or issued by a registered interior designer may be transmitted electronically and may be signed by the registered interior designer, dated, and sealed electronically with the seal in accordance with ss. 668.001-668.006, F.S..

It provides that an architect or interior designer may not sign and seal by any means any final plan, specification, or report after her or his certificate of registration has expired or is suspended or revoked. It requires the architect or interior designer to, within 30 days after the effective date of the suspension or revocation, surrender her or his seal the executive director of the board and confirm in writing to the executive director of the board and confirm in writing to the executive director the cancellation of the registered architect’s or interior designer’s electronic signature in accordance with ss. 668.001-668.006, F.S. When the registration is suspended for a period of time, her or his seal shall be returned upon expiration of the period of suspension.

Section 2. Section 481.321, F.S., is amended to provide the Board of Landscape Architecture with the authority to prescribe by rule one or more forms of seal for use by a registered landscape architect. The landscape architect shall obtain one seal in a form approved by the board. The seal must be registered electronically in accordance with the laws governing electronic signatures.⁷ The bill provides that final plans, specifications, or reports prepared or issued by a registered

⁵ Section 668.002, F.S.

⁶ Section 668.006, F.S.

⁷ Sections. 668.001-006, F.S.

landscape architect may be transmitted electronically and may be signed and sealed electronically. It deletes the requirement for an “impression type” metal seal.

The bill makes it unlawful to sign and seal any final plan, specification, or report if the certificate of registration is expired, suspended, or revoked. Within 30 days of the effective date of the seal being expired, suspended, or revoked, the landscape architect must surrender the seal to the executive director of the board. A seal may be returned to the landscape architect at the expiration of a suspension.

Section 3. This section reenacts section 481.221, F.S. to incorporate the cross referenced changes in the bill.

Section 4. This section reenacts section 481.325, F.S., to incorporate the cross referenced changes in the bill.

Section 5. Section 489.103, F.S., is amended to provide that persons who perform the work of servicing, repairing, recharging, hydrotesting, installing, or inspecting all types of preengineered fire extinguishing systems⁸ are exempt from regulation under part I of ch. 489, F.S.

Section 6. Section 489.105, F.S., amends the definitions of the terms “class A air-conditioning contractor” and “class B air-conditioning contractor” to provide that such contractors can provide disconnect or reconnect changeouts of equipment that includes LP gas or natural gas appliances within buildings. The terms “mechanical contractor” and “plumbing contractor” are amended to include LP gas within the scope of work for those categories of licensure.

Section 7. The bill provides for an effective date of October 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁸ *Supra* note 1.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Business and Professional Regulation (department), this bill would allow the Board of Architecture and Interior Design and the Board of Landscape Architecture to develop rules allowing their respective licensees to use one or more methods for admitting and sealing plans, drawings specifications and reports.

The department further provides that the bill exempts from regulation under part I, ch. 489, F.S., persons licensed under s. 633.061(1)(d) and (2)(b), F.S. who service, recharge, repair, install, and inspect pre-engineered fire extinguishing systems. The department indicated that these changes create parity between LP gas installers and licensees regulated by ch. 489, F.S., in that the bill would broaden the scope of work of Class A and B air conditioning contractors, mechanical contractors and plumbing contractors. This expansion is within the current professional qualification of each of these licensees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
