

CHAMBER ACTION

1 The Commerce Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to contracting; amending s. 489.503, F.S.;
7 exempting nationally recognized testing laboratories from
8 certain electrical and alarm system contracting
9 provisions; amending s. 489.505, F.S.; providing a
10 definition; amending ss. 489.128 and 489.532, F.S.;
11 providing that individuals performing certain construction
12 contracting work, certain business organizations entering
13 into construction contracts, or individuals performing
14 certain electrical and alarm system contracting work are
15 not considered unlicensed for purposes of contract
16 enforceability; providing for retroactive application;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraphs (a) and (b) of subsection (1) of
22 section 489.128, Florida Statutes, are amended to read:

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23 | 489.128 Contracts entered into by unlicensed contractors
24 | unenforceable.--

25 | (1) As a matter of public policy, contracts entered into
26 | on or after October 1, 1990, by an unlicensed contractor shall
27 | be unenforceable in law or in equity by the unlicensed
28 | contractor.

29 | (a) For purposes of this section, an individual is
30 | unlicensed if the individual does not have a license required by
31 | this part concerning the scope of the work to be performed under
32 | the contract. A business organization is unlicensed if the
33 | business organization does not have a primary or secondary
34 | qualifying agent in accordance with this part concerning the
35 | scope of the work to be performed under the contract. For
36 | purposes of this section, if no state or local license is
37 | required for the scope of work to be performed under the
38 | contract, the individual performing that work shall not be
39 | considered unlicensed.

40 | (b) For purposes of this section, an individual or
41 | business organization may ~~shall~~ not be considered unlicensed for
42 | failing to have an occupational license certificate issued under
43 | the authority of chapter 205. A business organization may ~~shall~~
44 | not be considered unlicensed for failing to have a certificate
45 | of authority as required by ss. 489.119 and 489.127. For
46 | purposes of this section, a business organization entering into
47 | the contract may not be considered unlicensed if, before the
48 | date established by paragraph (c), an individual possessing a
49 | license required by this part concerning the scope of the work
50 | to be performed under the contract had submitted an application

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51 for a certificate of authority designating that individual as a
52 qualifying agent for the business organization entering into the
53 contract, and the application was not acted upon by the
54 department or applicable board within the applicable time
55 limitations imposed by s. 120.60.

56 Section 2. Subsection (21) is added to section 489.503,
57 Florida Statutes, to read:

58 489.503 Exemptions.--This part does not apply to:

59 (21) Inspections, audits, or quality assurance services
60 performed by a nationally recognized testing laboratory that the
61 Occupational Safety and Health Administration has recognized as
62 meeting the requirements of 29 C.F.R. s. 1910.7.

63 Section 3. Subsection (29) is added to section 489.505,
64 Florida Statutes, to read:

65 489.505 Definitions.--As used in this part:

66 (29) "Nationally recognized testing laboratory" means an
67 organization that the Occupational Safety and Health
68 Administration has legally recognized to be in compliance with
69 29 C.F.R. s. 1910.7 and that provides quality assurance, product
70 testing, or certification services.

71 Section 4. Paragraph (a) of subsection (1) of section
72 489.532, Florida Statutes, is amended to read:

73 489.532 Contracts entered into by unlicensed contractors
74 unenforceable.--

75 (1) As a matter of public policy, contracts entered into
76 on or after October 1, 1990, by an unlicensed contractor shall
77 be unenforceable in law or in equity by the unlicensed
78 contractor.

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79 | (a) For purposes of this section, an individual is
80 | unlicensed if the individual does not have a license required by
81 | this part concerning the scope of the work to be performed under
82 | the contract. A business organization is unlicensed if the
83 | business organization does not have a primary or secondary
84 | qualifying agent in accordance with this part concerning the
85 | scope of the work to be performed under the contract. For
86 | purposes of this section, if no state or local license is
87 | required for the scope of work to be performed under the
88 | contract, the individual performing that work shall not be
89 | considered unlicensed.

90 | Section 5. Sections 1 and 4 are intended to be remedial in
91 | nature and to clarify existing law. Sections 1 and 4 shall apply
92 | retroactively to all actions, including any action on a lien or
93 | bond claim, initiated on or after, or pending as of, July 1,
94 | 2006. If the retroactivity of any provision of section 1 or
95 | section 4 or its retroactive application to any person or
96 | circumstance is held invalid, the invalidity does not affect the
97 | retroactivity or retroactive application of other provisions of
98 | sections 1 and 4.

99 | Section 6. This act shall take effect July 1, 2006.