

ENROLLED

HB 1351, Engrossed 1

2006 Legislature

1 A bill to be entitled
2 An act relating to contracting; amending s. 489.516, F.S.;
3 exempting certain electrical and alarm system contractors
4 from ordinances or codes of local governments or special
5 districts requiring various types of recognition by
6 certain national entities; authorizing local governments
7 or special districts to require such contractors to
8 provide certain documentation at the final inspection of
9 an alarm system; reserving the authority of local
10 governments and special districts to require compliance
11 with the Florida Fire Prevention Code and NFPA No. 72;
12 amending ss. 489.128 and 489.532, F.S.; providing that
13 individuals performing certain construction contracting or
14 electrical and alarm system contracting work are not
15 considered unlicensed for purposes of contract
16 enforceability; providing for retroactive application;
17 amending s. 489.503, F.S.; exempting nationally recognized
18 testing laboratories and persons who install or repair
19 lightning rods from certain alarm system contracting
20 provisions; amending s. 489.505, F.S.; revising
21 definitions; defining the term "nationally recognized
22 testing laboratory"; amending s. 489.513, F.S.; providing
23 eligibility requirements for registering with the
24 Department of Business and Professional Regulation as an
25 electrical contractor or alarm system contractor; amending
26 s. 489.529, F.S.; requiring a central monitoring station
27 to employ call-verification methods under certain

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28 | circumstances; amending s. 489.530, F.S.; exempting a fire
 29 | alarm system from the requirement that it have a device
 30 | that automatically terminates its audible signal after a
 31 | certain period; providing an effective date.

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

35 | Section 1. Subsection (5) is added to section 489.516,
 36 | Florida Statutes, to read:

37 | 489.516 Qualifications to practice; restrictions;
 38 | prerequisites.--

39 | (5) Notwithstanding any other provision to the contrary, a
 40 | certified electrical contractor, registered alarm system
 41 | contractor I, registered alarm system contractor II, or alarm
 42 | system contractor I or alarm system contractor II that is a
 43 | certified alarm system contractor is exempt from any local law,
 44 | local ordinance, or local code that requires a contractor to be
 45 | listed or placarded by a nationally recognized testing
 46 | laboratory or to be certified by any regionally or nationally
 47 | recognized certification organization. However, a county,
 48 | municipality, or special district may require any such
 49 | electrical contractor or alarm system contractor to provide, at
 50 | the final inspection of a fire alarm system, the documentation
 51 | required by NFPA No. 72, "National Fire Alarm Code," for
 52 | installation and monitoring. This subsection does not prohibit a
 53 | county, municipality, or special district from requiring

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54 compliance with the Florida Fire Prevention Code or with NFPA
 55 No. 72.

56 Section 2. Paragraphs (a) and (b) of subsection (1) of
 57 section 489.128, Florida Statutes, are amended to read:

58 489.128 Contracts entered into by unlicensed contractors
 59 unenforceable.--

60 (1) As a matter of public policy, contracts entered into
 61 on or after October 1, 1990, by an unlicensed contractor shall
 62 be unenforceable in law or in equity by the unlicensed
 63 contractor.

64 (a) For purposes of this section, an individual is
 65 unlicensed if the individual does not have a license required by
 66 this part concerning the scope of the work to be performed under
 67 the contract. A business organization is unlicensed if the
 68 business organization does not have a primary or secondary
 69 qualifying agent in accordance with this part concerning the
 70 scope of the work to be performed under the contract. For
 71 purposes of this section, if no state or local license is
 72 required for the scope of work to be performed under the
 73 contract, the individual performing that work shall not be
 74 considered unlicensed.

75 (b) For purposes of this section, an individual or
 76 business organization may ~~shall~~ not be considered unlicensed for
 77 failing to have an occupational license certificate issued under
 78 the authority of chapter 205. A business organization may ~~shall~~
 79 not be considered unlicensed for failing to have a certificate
 80 of authority as required by ss. 489.119 and 489.127. For

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81 purposes of this section, a business organization entering into
82 the contract may not be considered unlicensed if, before the
83 date established by paragraph (c), an individual possessing a
84 license required by this part concerning the scope of the work
85 to be performed under the contract has submitted an application
86 for a certificate of authority designating that individual as a
87 qualifying agent for the business organization entering into the
88 contract, and the application was not acted upon by the
89 department or applicable board within the time limitations
90 imposed by s. 120.60.

91 Section 3. Subsections (21) and (22) are added to section
92 489.503, Florida Statutes, to read:

93 489.503 Exemptions.--This part does not apply to:

94 (21) Alarm system inspections, audits, or quality
95 assurance services performed by a nationally recognized testing
96 laboratory that the Occupational Safety and Health
97 Administration has recognized as meeting the requirements of 29
98 C.F.R. s. 1910.7.

99 (22) Any person who installs or repairs lightning rods or
100 related systems.

101 Section 4. Subsections (2), (7), (25), (27), and (28) of
102 section 489.505, Florida Statutes, are amended, and subsection
103 (29) is added to that section, to read:

104 489.505 Definitions.--As used in this part:

105 (2) "Alarm system contractor" means a person whose
106 business includes the execution of contracts requiring the
107 ability, experience, science, knowledge, and skill to lay out,

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108 fabricate, install, maintain, alter, repair, monitor, inspect,
 109 replace, or service alarm systems for compensation, including,
 110 but not limited to, all types of alarm systems for all purposes.
 111 This term also means any person, firm, or corporation that
 112 engages in the business of alarm contracting under an expressed
 113 or implied contract; that undertakes, offers to undertake,
 114 purports to have the capacity to undertake, or submits a bid to
 115 engage in the business of alarm contracting; or that by itself
 116 or by or through others engages in the business of alarm
 117 contracting.

118 (a) "Alarm system contractor I" means an alarm system
 119 contractor whose business includes all types of alarm systems
 120 for all purposes.

121 (b) "Alarm system contractor II" means an alarm system
 122 contractor whose business includes all types of alarm systems
 123 other than fire, for all purposes, except as herein provided.

124 (7) "Certified alarm system contractor" means an alarm
 125 system contractor who possesses a certificate of competency
 126 issued by the department. The scope of certification is limited
 127 to alarm circuits originating in the alarm control panel and
 128 equipment governed by the applicable provisions of Articles 725,
 129 760, 770, 800, and 810 of the National Electrical Code, Current
 130 Edition, and National Fire Protection Association Standard 72,
 131 Current Edition. The scope of certification for alarm system
 132 contractors also includes the installation, repair, fabrication,
 133 erection, alteration, addition, or design of electrical wiring,
 134 fixtures, appliances, thermostats, apparatus, raceways, and

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135 | conduit, or any part thereof not to exceed 98 volts (RMS) ~~77~~
 136 | ~~volts~~, when those items are for the purpose of transmitting data
 137 | or proprietary video (satellite systems that are not part of a
 138 | community antenna television or radio distribution system) or
 139 | providing central vacuum capability or electric locks; however,
 140 | this provision governing the scope of certification does not
 141 | create any mandatory licensure requirement.

142 | (25) "Burglar alarm system agent" means a person:

143 | (a) Who is employed by a licensed alarm system contractor
 144 | or licensed electrical contractor;

145 | (b) Who is performing duties which are an element of an
 146 | activity which constitutes alarm system contracting requiring
 147 | licensure under this part; and

148 | (c) Whose specific duties include any of the following:
 149 | altering, installing, maintaining, moving, repairing, replacing,
 150 | servicing, selling ~~onsite~~, or monitoring an intrusion or burglar
 151 | alarm system for compensation.

152 | (27) "Monitoring" means to receive electrical or
 153 | electronic signals~~7~~ originating from any structure building
 154 | within the state or outside the state, regardless of whether
 155 | those signals are relayed through a jurisdiction outside the
 156 | state, where such signals are~~7~~ produced by any security,
 157 | medical, fire, or burglar alarm, closed circuit television
 158 | camera, access-control system, or related or similar protective
 159 | system and are intended by design to initiate a response
 160 | thereto. A person shall not have committed the act of
 161 | monitoring if:

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162 (a) The person is an occupant of, or an employee working
 163 within, protected premises;

164 (b) The person initiates emergency action in response to
 165 hearing or observing an alarm signal;

166 (c) The person's action is incidental to his or her
 167 primary responsibilities; and

168 (d) The person is not employed in a proprietary monitoring
 169 facility, as defined by the National Fire Protection Association
 170 pursuant to rule adopted under chapter 633.

171 (28) "Fire alarm system agent" means a person:

172 (a) Who is employed by a licensed fire alarm contractor or
 173 certified unlimited electrical contractor;

174 (b) Who is performing duties which are an element of an
 175 activity that constitutes fire alarm system contracting
 176 requiring certification under this part; and

177 (c) Whose specific duties include any of the following:
 178 altering, installing, maintaining, moving, repairing, replacing,
 179 servicing, selling ~~onsite~~, or monitoring a fire alarm system for
 180 compensation.

181 (29) "Nationally recognized testing laboratory" means an
 182 organization that the Occupational Safety and Health
 183 Administration has legally recognized to be in compliance with
 184 29 C.F.R. s. 1910.7 and that provides quality assurance, product
 185 testing, or certification services.

186 Section 5. Subsection (1) of section 489.513, Florida
 187 Statutes, is amended to read:

188 489.513 Registration; application; requirements.--

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189 (1) Any person engaged in the business of contracting in
 190 the state shall be registered in the proper classification,
 191 unless he or she is certified. Any person desiring to be a
 192 registered contractor shall apply to the department for
 193 registration and must:-

194 (a) Be at least 18 years old;

195 (b) Be of good moral character; and

196 (c) Meet eligibility requirements according to the
 197 following criteria:

198 1. As used in this subsection, the term "good moral
 199 character" means a personal history of honesty, fairness, and
 200 respect for the rights of others and for state and federal law.

201 2. The board may determine that an individual applying for
 202 registration is ineligible due to failure to satisfy the
 203 requirement of good moral character only if:

204 a. There is a substantial connection between the lack of
 205 good moral character of the individual and the professional
 206 responsibilities of a registered contractor; and

207 b. The finding by the board of lack of good moral
 208 character is supported by clear and convincing evidence.

209 3. When an individual is found to be unqualified because
 210 of lack of good moral character, the board must furnish such
 211 individual a statement containing the findings of the board, a
 212 complete record of evidence upon which the determination was
 213 based, and a notice of the rights of the individual to a
 214 rehearing and an appeal.

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215 Section 6. Section 489.529, Florida Statutes, is amended
 216 to read:

217 489.529 Alarm verification calls required.--All
 218 residential or commercial intrusion/burglary alarms that have
 219 central monitoring must have a central monitoring verification
 220 call made to the premises generating the alarm signal, prior to
 221 alarm monitor personnel contacting a law enforcement agency for
 222 alarm dispatch. The central monitoring station must employ call-
 223 verification methods for the premises generating the alarm
 224 signal if the first call is not answered. However, if the
 225 intrusion/burglary alarms have properly operating visual or
 226 auditory sensors that enable the monitoring personnel to verify
 227 the alarm signal, verification calling is not required.

228 Section 7. Section 489.530, Florida Statutes, is amended
 229 to read:

230 489.530 Audible alarms.--Every audible alarm system
 231 installed by a licensed contractor shall have a device to
 232 automatically terminate the audible signal within 15 minutes of
 233 activation. A fire alarm system, whether installed voluntarily
 234 or as a requirement of an adopted code, which employs an audible
 235 fire signal is exempt as required by such code.

236 Section 8. Paragraph (a) of subsection (1) of section
 237 489.532, Florida Statutes, is amended to read:

238 489.532 Contracts entered into by unlicensed contractors
 239 unenforceable.--

240 (1) As a matter of public policy, contracts entered into
 241 on or after October 1, 1990, by an unlicensed contractor shall

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242 | be unenforceable in law or in equity by the unlicensed
243 | contractor.

244 | (a) For purposes of this section, an individual is
245 | unlicensed if the individual does not have a license required by
246 | this part concerning the scope of the work to be performed under
247 | the contract. A business organization is unlicensed if the
248 | business organization does not have a primary or secondary
249 | qualifying agent in accordance with this part concerning the
250 | scope of the work to be performed under the contract. For
251 | purposes of this section, if no state or local license is
252 | required for the scope of work to be performed under the
253 | contract, the individual performing that work shall not be
254 | considered unlicensed.

255 | Section 9. Sections 2 and 8 are intended to be remedial in
256 | nature and to clarify existing law. Sections 2 and 8 shall apply
257 | retroactively to all actions, including any action on a lien or
258 | bond claim, initiated on or after, or pending as of, July 1,
259 | 2006. If the retroactivity of any provision of section 2 or
260 | section 8 or its retroactive application to any person or
261 | circumstance is held invalid, the invalidity does not affect the
262 | retroactivity or retroactive application of other provisions of
263 | sections 2 and 8.

264 | Section 10. This act shall take effect July 1, 2006.