

Bill No. SB 2472

Barcode 834700

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Aronberg) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (7) of section 489.103, Florida
Statutes, is amended to read:

489.103 Exemptions.--This part does not apply to:

(7) Owners of property when acting as their own
contractor and providing direct, onsite supervision themselves
of all work not performed by licensed contractors:

(a) When building or improving farm outbuildings or
one-family or two-family residences on such property for the
occupancy or use of such owners and not offered for sale or
lease, or building or improving commercial buildings, at a
cost not to exceed ~~\$25,000~~ \$75,000, on such property for the
occupancy or use of such owners and not offered for sale or
lease. In an action brought under this part, proof of the sale
or lease, or offering for sale or lease, of any such structure

Bill No. SB 2472

Barcode 834700

1 by the owner-builder within 1 year after completion of same
2 creates a presumption that the construction was undertaken for
3 purposes of sale or lease.

4 (b) When repairing or replacing wood shakes or asphalt
5 or fiberglass shingles on one-family, two-family, or
6 three-family residences for the occupancy or use of such owner
7 or tenant of the owner and not offered for sale within 1 year
8 after completion of the work and when the property has been
9 damaged by natural causes from an event recognized as an
10 emergency situation designated by executive order issued by
11 the Governor declaring the existence of a state of emergency
12 as a result and consequence of a serious threat posed to the
13 public health, safety, and property in this state.

14
15 This subsection does not exempt any person who is employed by
16 or has a contract with such owner and who acts in the capacity
17 of a contractor. The owner may not delegate the owner's
18 responsibility to directly supervise all work to any other
19 person unless that person is registered or certified under
20 this part and the work being performed is within the scope of
21 that person's license. For the purposes of this subsection,
22 the term "owners of property" includes the owner of a mobile
23 home situated on a leased lot. To qualify for exemption under
24 this subsection, an owner must personally appear and sign the
25 building permit application and must satisfy local permitting
26 agency requirements, if any, proving that the owner has a
27 complete understanding of the owner's obligations under the
28 law as specified in the disclosure statement in this section.
29 If any person violates the requirements of this subsection,
30 the local permitting agency shall withhold final approval,
31 revoke the permit, or pursue any action or remedy for

Bill No. SB 2472

Barcode 834700

1 unlicensed activity against the owner and any person
 2 performing work that requires licensure under the permit
 3 issued. The local permitting agency shall provide the person
 4 with a disclosure statement in substantially the following
 5 form:

6 Disclosure Statement

7 State law requires construction to be done by licensed
 8 contractors. You have applied for a permit under an exemption
 9 to that law. The exemption allows you, as the owner of your
 10 property, to act as your own contractor with certain
 11 restrictions even though you do not have a license. You must
 12 provide direct, onsite supervision of the construction
 13 yourself. You may build or improve a one-family or two-family
 14 residence or a farm outbuilding. You may also build or improve
 15 a commercial building, provided your costs do not exceed
 16 \$75,000 ~~\$25,000~~. The building or residence must be for your
 17 own use or occupancy. It may not be built or substantially
 18 improved for sale or lease. If you sell or lease a building
 19 you have built or substantially improved yourself within 1
 20 year after the construction is complete, the law will presume
 21 that you built or substantially improved it for sale or lease,
 22 which is a violation of this exemption. You may not hire an
 23 unlicensed person to act as your contractor or to supervise
 24 people working on your building. It is your responsibility to
 25 make sure that people employed by you have licenses required
 26 by state law and by county or municipal licensing ordinances.
 27 You may not delegate the responsibility for supervising work
 28 to a licensed contractor who is not licensed to perform the
 29 work being done. Any person working on your building who is
 30 not licensed must work under your direct supervision and must
 31 be employed by you, which means that you must deduct F.I.C.A.

Bill No. SB 2472

Barcode 834700

1 and withholding tax and provide workers' compensation for that
2 employee, all as prescribed by law. Your construction must
3 comply with all applicable laws, ordinances, building codes,
4 and zoning regulations.

5 Section 2. Subsection (6) of section 489.503, Florida
6 Statutes, is amended to read:

7 489.503 Exemptions.--This part does not apply to:

8 (6) An owner of property making application for
9 permit, supervising, and doing the work in connection with the
10 construction, maintenance, repair, and alteration of and
11 addition to a single-family or duplex residence for his or her
12 own use and occupancy and not intended for sale or an owner of
13 property when acting as his or her own electrical contractor
14 and providing all material supervision himself or herself,
15 when building or improving a farm outbuilding or a
16 single-family or duplex residence on such property for the
17 occupancy or use of such owner and not offered for sale or
18 lease, or building or improving a commercial building with
19 aggregate construction costs of under \$75,000 ~~\$25,000~~ on such
20 property for the occupancy or use of such owner and not
21 offered for sale or lease. In an action brought under this
22 subsection, proof of the sale or lease, or offering for sale
23 or lease, of more than one such structure by the owner-builder
24 within 1 year after completion of same is prima facie evidence
25 that the construction was undertaken for purposes of sale or
26 lease. This subsection does not exempt any person who is
27 employed by such owner and who acts in the capacity of a
28 contractor. For the purpose of this subsection, the term
29 "owner of property" includes the owner of a mobile home
30 situated on a leased lot. To qualify for exemption under this
31 subsection, an owner shall personally appear and sign the

Bill No. SB 2472

Barcode 834700

1 building permit application and must satisfy local permitting
2 agency requirements, if any, proving that the owner has a
3 complete understanding of the owner's obligations under the
4 law as specified in the disclosure statement in this section.
5 If any person violates the requirements of this subsection,
6 the local permitting agency shall withhold final approval,
7 revoke the permit, or pursue any action or remedy for
8 unlicensed activity against the owner and any person
9 performing work that requires licensure under the permit
10 issued. The local permitting agency shall provide the owner
11 with a disclosure statement in substantially the following
12 form:

13 Disclosure Statement

14 State law requires electrical contracting to be done by
15 licensed electrical contractors. You have applied for a permit
16 under an exemption to that law. The exemption allows you, as
17 the owner of your property, to act as your own electrical
18 contractor even though you do not have a license. You may
19 install electrical wiring for a farm outbuilding or a
20 single-family or duplex residence. You may install electrical
21 wiring in a commercial building the aggregate construction
22 costs of which are under ~~\$75,000~~ ~~\$25,000~~. The home or building
23 must be for your own use and occupancy. It may not be built
24 for sale or lease. If you sell or lease more than one building
25 you have wired yourself within 1 year after the construction
26 is complete, the law will presume that you built it for sale
27 or lease, which is a violation of this exemption. You may not
28 hire an unlicensed person as your electrical contractor. Your
29 construction shall be done according to building codes and
30 zoning regulations. It is your responsibility to make sure
31 that people employed by you have licenses required by state

Bill No. SB 2472

Barcode 834700

1 law and by county or municipal licensing ordinances.

2 Section 3. Paragraph (b) of subsection (1) of section
3 489.128, Florida Statutes, is amended to read:

4 489.128 Contracts entered into by unlicensed
5 contractors unenforceable.--

6 (1) As a matter of public policy, contracts entered
7 into on or after October 1, 1990, by an unlicensed contractor
8 shall be unenforceable in law or in equity by the unlicensed
9 contractor.

10 (b) For purposes of this section, an individual or
11 business organization may ~~shall~~ not be considered unlicensed
12 for failing to have an occupational license certificate issued
13 under the authority of chapter 205. A business organization
14 may ~~shall~~ not be considered unlicensed for failing to have a
15 certificate of authority as required by ss. 489.119 and
16 489.127. For purposes of this section, a business organization
17 entering into the contract may not be considered unlicensed
18 if, before the date established by paragraph (c), an
19 individual possessing a license required by this part
20 concerning the scope of the work to be performed under the
21 contract had submitted an application for a certificate of
22 authority designating that individual as a qualifying agent
23 for the business organization entering into the contract, and
24 the application was not acted upon by the department or
25 applicable board within the applicable time limitations
26 imposed by s. 120.60.

27 Section 4. Section 3 is intended to be remedial in
28 nature and to clarify existing law. Section 3 applies
29 retroactively to all actions, including any action on a lien
30 or bond claim, initiated on or after, or pending as of, July
31 1, 2006. If the retroactivity of any provision of section 3 or

Bill No. SB 2472

Barcode 834700

1 its retroactive application to any person or circumstance is
 2 held invalid, the invalidity does not affect the retroactivity
 3 or retroactive application of other provisions of section 3.

4 Section 5. This act shall take effect July 1, 2006.

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause

11 and insert:

12 A bill to be entitled

13 An act relating to contracting exemptions;
 14 amending ss. 489.103 and 489.503, F.S.;

15 revising exemptions for certain owners of
 16 property from certain contracting provisions;
 17 increasing maximum construction costs allowed
 18 for exemption; requiring owners of property to
 19 satisfy certain local permitting agency
 20 requirements; providing for penalties;

21 providing an exemption for owners of property
 22 damaged by certain natural causes; amending s.
 23 489.128, F.S.; providing that a business
 24 organization entering into a construction
 25 contract is not deemed unlicensed under certain
 26 conditions; providing for retroactive
 27 application; providing an effective date.