

# 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.)

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Prepared By: Regulated Industries Committee

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BILL: SB 2472

INTRODUCER: Senator Peadar

SUBJECT: Contracting Exemptions

DATE: April 6, 2006

REVISED: 4/18/06

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

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## I. Summary:

The bill increases the limit for construction work and electrical work performed by a property owner acting as their own contractor when building or improving commercial buildings from \$25,000 to \$75,000.

The bill recognizes the Governor's declaration of a state of emergency due to damage caused by natural causes that pose a serious threat to the public health, safety and welfare. It creates a licensure exemption for property owners who repair or replace wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of the owner or owner's tenant and are not offered for sale within one year.

The bill also provides that if any person violates the provisions of the exemption, local permitting agency shall have the authority to withhold final approval, revoke the permit, or pursue any action or remedy for unlicensed activity against the owner and any person performing work that requires licensure under the permit.

This bill substantially amends the following sections of the Florida Statutes: 489.103(7) and 489.503.

## II. Present Situation:

The Construction Industry Licensing Board (CILB) is responsible for licensing and regulation of state construction contractors, as governed by ch. 489, F.S. The Department of Business and Professional Regulation (department) provides support functions to the CILB, including processing of licensure applications, investigation of disciplinary cases, and prosecution of disciplinary matters.

Licensure and regulation of construction contractors is governed by Part I of ch. 489, F.S. Section 489.105(3)(a)-(c), F.S., requires licensure for general contractors, building contractors and residential contractors. Section 489.105(3)(d)-(o), F.S., requires licensure for persons who perform the following categories of construction: sheet metal, roofing, air-conditioning, mechanical, swimming pool/spa, plumbing, underground utility and excavation, and solar contracting.

Section 489.103, F.S., provides for certain licensure exemptions. Section 489.103(7), F.S., exempts property property owners when acting as their own contractor and providing direct, on-site supervision of all work performed by unlicensed contractors, when building or improving a one-family, two-family, or three family residence for the owner's occupancy and use, or improving commercial building for the owner's occupancy or use, provided the property is not offered for sale or lease. The work performed on commercial buildings may not exceed \$25,000. Section 489.103(7), F.S., requires the property owner to employ the unlicensed contractor, which means that the property owner must deduct F.I.C.A. and withholding tax and provide workers' compensation for that employee.

The licensure and regulation of electrical contractors is governed by Part II of ch. 489, F.S. Section 489.503, F.S., provides certain licensure exemptions. Section 489.503(6), F.S., exempts owners of property making application for permits, supervising, and performing electrical work in connection with the construction, maintenance, repair, and alteration of and addition to a single-family or duplex residence for his or her own use and occupancy and not intended for sale, or building or improving a commercial building with aggregate construction costs of under \$25,000 on such property for the occupancy or use of such owner and not offered for sale or lease. The statute also provides that the owner may not hire unlicensed contractors to work on the project.

#### **Executive Order Number 05-234**

The Office of the Governor issued Executive Order 05-219 on October 19, 2005, declaring the existence of a state of emergency statewide as a result of Hurricane Wilma. It provided that Hurricane Wilma passed through South Florida and caused damage and destruction to Florida's communities, which had just begun recovering from Hurricanes Dennis, Katrina, and Rita during 2005, and Hurricanes Charley, Frances, Ivan and Jeanne in 2004. The order stated that there is a critical need to provide roofing of homes and buildings damaged by Hurricanes Dennis, Katrina, and Wilma. It provided that s. 489.113(3), F.S., was suspended to the extent that a certified or registered general, building, or residential contractor is not required to subcontract roofing work for the repair and installation of roofs made of wood shakes, asphalt or fiberglass shingles, until November 15, 2005, unless extended.<sup>1</sup>

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<sup>1</sup> Executive Order 05-260 extended Executive Order 05-234 until December 15, 2005.

**III. Effect of Proposed Changes:**

The bill amends s. 489.103(7), F.S., to increase the \$25,000 limit for construction work performed by the owner of property when acting as their own contractor when building or improving commercial buildings to \$75,000.

The bill creates s. 489.103(7)(b), F.S., to exempt from licensure property owners who repair or replace wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of the owner or owner's tenant and not offered for sale within one year.

The bill provides that the property must be damaged by natural causes from an event recognized as an emergency situation designated by an Executive Order of the Governor declaring the existence of a state of emergency resulting from a serious threat posed to the public health, safety, and property in Florida.

The bill also provides that the owner must satisfy any local permitting agency requirements proving that the owner has a complete understanding of the owner's obligations under law. The bill also provides that if any person violates the provisions of the exemption, the local permitting agency shall have the authority to withhold final approval, revoke the permit, or pursue any action or remedy for unlicensed activity against the owner and any person performing work that requires licensure under the permit.

The bill amends s. 489.503(6), F.S., to increase the \$25,000 limit for electrical work performed on commercial buildings to \$75,000. The bill also provides that if any person violates the provisions of the exemption, local permitting agency shall have the authority to withhold final approval, revoke the permit, or pursue any action or remedy for unlicensed activity against the owner and any person performing work that requires licensure under the permit.

The bill provides and effective date of July 1, 2006.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to the department the use of the word “owner” in s. 489.103(7)(b), F.S., is unnecessary since it is already addressed in s. 489.103(7), F.S. Section 489.103(7), F.S., authorizes an owner to make improvements or repairs on residences they occupy regardless of the existence of a state of emergency. The bill creates s. 489.103(7)(b), F.S., to codify the provisions of the Executive Order that authorized owners to perform work on rented or leased properties that are damaged as a result of an emergency situation. exempting property owners from licensure who repair or replace wood shakes or asphalt or fiberglass shingles on the owner’s residence or the owner’s tenant’s residence.

## **VIII. Summary of Amendments:**

None.

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

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