

Bill No. CS for SB 2590

Barcode 860638

CHAMBER ACTION

Senate

House

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Comm: RCS
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The Committee on Judiciary (Baker) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

489.128 Contracts entered into by unlicensed contractors unenforceable.--

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

(a) For purposes of this section, an individual is unlicensed if the individual does not have a license required by this part concerning the scope of the work to be performed under the contract. A business organization is unlicensed if the business organization does not have a primary or secondary qualifying agent in accordance with this part concerning the

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1 scope of the work to be performed under the contract. For
 2 purposes of this section, if no state or local license is
 3 required for the scope of work to be performed under the
 4 contract, the individual performing that work shall not be
 5 considered unlicensed.

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

23 Section 2. Subsection (6) of section 489.503, Florida
 24 Statutes, is amended, and subsection (21) is added to that
 25 section, to read:

26 489.503 Exemptions.--This part does not apply to:

27 (6) An owner of property making application for
 28 permit, supervising, and doing the work in connection with the
 29 construction, maintenance, repair, and alteration of and
 30 addition to a single-family or duplex residence for his or her
 31 own use and occupancy and not intended for sale or an owner of

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1 property when acting as his or her own electrical contractor
2 and providing all material supervision himself or herself,
3 when building or improving a farm outbuilding or a
4 single-family or duplex residence on such property for the
5 occupancy or use of such owner and not offered for sale or
6 lease, or building or improving a commercial building with
7 aggregate construction costs of under \$75,000 ~~\$25,000~~ on such
8 property for the occupancy or use of such owner and not
9 offered for sale or lease. In an action brought under this
10 subsection, proof of the sale or lease, or offering for sale
11 or lease, of more than one such structure by the owner-builder
12 within 1 year after completion of same is prima facie evidence
13 that the construction was undertaken for purposes of sale or
14 lease. This subsection does not exempt any person who is
15 employed by such owner and who acts in the capacity of a
16 contractor. For the purpose of this subsection, the term
17 "owner of property" includes the owner of a mobile home
18 situated on a leased lot. To qualify for exemption under this
19 subsection, an owner shall personally appear and sign the
20 building permit application and must satisfy local permitting
21 agency requirements, if any, proving that the owner has a
22 complete understanding of the owner's obligations under the
23 law as specified in the disclosure statement in this section.
24 If any person violates the requirements of this subsection,
25 the local permitting agency shall withhold final approval,
26 revoke the permit, or pursue any action or remedy for
27 unlicensed activity against the owner and any person
28 performing work that requires licensure under the permit
29 issued. The local permitting agency shall provide the owner
30 with a disclosure statement in substantially the following
31 form:

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Disclosure Statement

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

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

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

489.505 Definitions.--As used in this part:

(29) "Nationally recognized testing laboratory" means

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1 an organization that the Occupational Safety and Health
 2 Administration has legally recognized to be in compliance with
 3 29 C.F.R. s. 1910.7 and that provides quality assurance,
 4 product testing, or certification services.

5 Section 4. Paragraph (a) of subsection (1) of section
 6 489.532, Florida Statutes, is amended to read:

7 489.532 Contracts entered into by unlicensed
 8 contractors unenforceable.--

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

13 (a) For purposes of this section, an individual is
 14 unlicensed if the individual does not have a license required
 15 by this part concerning the scope of the work to be performed
 16 under the contract. A business organization is unlicensed if
 17 the business organization does not have a primary or secondary
 18 qualifying agent in accordance with this part concerning the
 19 scope of the work to be performed under the contract. For
 20 purposes of this section, if no state or local license is
 21 required for the scope of work to be performed under the
 22 contract, the individual performing that work shall not be
 23 considered unlicensed.

24 Section 5. Sections 1 and 4 of this act are intended
 25 to be remedial in nature and to clarify existing law. Those
 26 sections apply retroactively to all actions, including any
 27 action on a lien or bond claim, initiated on or after, or
 28 pending as of, July 1, 2006. If the retroactivity of any
 29 provision of section 1 or section 4 or the retroactive
 30 application of any provision of section 1 or section 4 is held
 31 invalid, the invalidity does not affect the retroactivity or

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1 the retroactive application of other provisions of section 1
2 or section 4.

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

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

7 And the title is amended as follows:

8 Delete everything before the enacting clause

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10 and insert:

11 A bill to be entitled
12 An act relating to contracting; amending ss.
13 489.128 and 489.532, F.S.; providing that a
14 business organization or an individual entering
15 into a construction contract is not deemed
16 unlicensed under certain conditions; providing
17 for retroactive application; amending s.
18 489.503, F.S.; revising exemptions for certain
19 owners of property from certain contracting
20 provisions; increasing maximum construction
21 costs allowed for exemption; requiring owners
22 of property to satisfy certain local permitting
23 agency requirements; providing for penalties;
24 providing an exemption for owners of property
25 damaged by certain natural causes; amending s.
26 489.505; defining a term; providing an
27 effective date.

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