

By the Committee on Regulated Industries; and Senator Bennett

580-2126-06

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A bill to be entitled

An act relating to contracting; amending s.
489.128, F.S.; providing that a business
organization entering into a construction
contract is not deemed unlicensed under certain
conditions; providing for retroactive
application; providing an effective date.

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

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

489.128 Contracts entered into by unlicensed
contractors unenforceable.--

(1)

(b) For purposes of this section, an individual or
business organization ~~may shall~~ not be considered unlicensed
for failing to have an occupational license certificate issued
under the authority of chapter 205. A business organization
~~may shall~~ not be considered unlicensed for failing to have a
certificate of authority as required by ss. 489.119 and
489.127. For purposes of this section, a business organization
entering into the contract may not be considered unlicensed
if, before the date established by paragraph (c), an
individual possessing a license required by this part
concerning the scope of the work to be performed under the
contract had submitted an application for a certificate of
authority designating that individual as a qualifying agent
for the business organization entering into the contract, and
the application was not acted upon by the department or

1 applicable board within the applicable time limitations
2 imposed by s. 120.60.

3 Section 2. Section 1 is intended to be remedial in
4 nature and to clarify existing law. Section 1 applies
5 retroactively to all actions, including any action on a lien
6 or bond claim, initiated on or after, or pending as of, July
7 1, 2006. If the retroactivity of any provision of section 1 or
8 its retroactive application to any person or circumstance is
9 held invalid, the invalidity does not affect the retroactivity
10 or retroactive application of other provisions of section 1.

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

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2590

4 The committee substitute amends s. 489.128(1)(b) F.S., to
5 provide that a business organization shall not be considered
6 unlicensed if an individual, possessing a license concerning
7 the scope of the work to be performed under the contract,
8 submitted an application for a certificate of authority
9 designating that individual as qualifying agent for the
10 business organization entering into the contract, and the
11 application was not acted upon by the department or applicable
12 board within the applicable time limitations imposed by s.
13 120.60, F.S.

14 It provides that this amendment is intended to be remedial in
15 nature and to clarify existing law. It provides that it
16 applies retroactively to all actions, including any action on
17 a lien or a bond claim, initiated on or after, or pending as
18 of July 1, 2006. It provides for a severability clause.

19 It deletes the original language of the bill that provided
20 that a business organization is considered licensed if it has
21 a principal, manager, director or officer who is licensed
22 under chapter 489 on the date the contract is executed and
23 that a business organization is unlicensed if the business
24 organization does not have a primary or secondary qualifying
25 agent. It provided a person who knew the contractor was
26 unlicensed, could not file a civil action against the
27 contractor.

28 It deletes the provision that required a court to rule that a
29 contractor is licensed if the contractor met specific
30 requirements regarding maintaining and reinstating his
31 license.

It deleted that the bill applied retroactively to contracts
entered into on or after October 1, 2000 and applied to all
actions that are pending on or are filed on or after October
1, 2006.