

1 A bill to be entitled
2 An act relating to building code enforcement officials;
3 amending s. 468.619, F.S.; providing that the building
4 code enforcement officials' bill of rights does not apply
5 when the official is the subject of disciplinary
6 proceedings for actions occurring outside the scope of
7 employment; amending s. 468.621, F.S.; providing that
8 assisting any person in violating the building code is
9 grounds for discipline; providing that filing a record
10 that an official knew or should have known was false is
11 grounds for discipline; providing for disciplinary
12 proceedings for violations involving failure to follow
13 building codes or permits, obstructing an investigation,
14 and accepting services at a reduced rate from any person
15 whose work may be under the enforcement authority of the
16 official; increasing the maximum administrative fine that
17 may be imposed per violation; providing that a violation
18 of a local or state permitting or licensing requirement is
19 prima facie evidence that the official acted with reckless
20 disregard or deliberate ignorance; amending s. 489.113,
21 F.S.; providing that violations of building codes by
22 contractors need not be willful; amending s. 489.115,
23 F.S.; specifying that guidelines for determining financial
24 stability may include minimum requirements for net worth,
25 cash, and bonding; amending s. 489.127, F.S.; providing
26 penalties when a licensed contractor performs unlicensed
27 activity, hires a subcontractor to perform unlicensed
28 activity, or fails to obtain required permits; providing

29 that local jurisdictions may issue civil citations;
 30 providing an effective date.

31
 32 Be It Enacted by the Legislature of the State of Florida:

33
 34 Section 1. Subsection (10) is added to section 468.619,
 35 Florida Statutes, to read:

36 468.619 Building code enforcement officials' bill of
 37 rights.--

38 (10) This bill of rights does not apply when an
 39 enforcement official is under investigation or the subject of
 40 disciplinary proceedings for actions that occur outside the
 41 scope of the employment of the enforcement official.

42 Section 2. Subsections (1) and (2) of section 468.621,
 43 Florida Statutes, are amended, and subsection (5) is added to
 44 that section, to read:

45 468.621 Disciplinary proceedings.--

46 (1) The following acts constitute grounds for which the
 47 disciplinary actions in subsection (2) may be taken:

48 (a) Violating or failing to comply with any provision of
 49 this part, or a valid rule or lawful order of the board or
 50 department pursuant thereto.

51 (b) Obtaining certification through fraud, deceit, or
 52 perjury.

53 (c) ~~Knowingly~~ Assisting any person practicing contrary to
 54 ~~the provisions of:~~

55 1. This part; or

56 2. The building code adopted by the enforcement authority
57 of that person.

58 (d) Having been convicted of a felony against this state
59 or the United States, or of a felony in another state that would
60 have been a felony had it been committed in this state.

61 (e) Having been convicted of a crime in any jurisdiction
62 which directly relates to the practice of building code
63 administration or inspection.

64 (f) Making or filing a report or record that ~~which~~ the
65 certificateholder knew or should have known ~~knows~~ to be false,
66 ~~or knowingly~~ inducing another to file a false report or record,
67 ~~or knowingly~~ failing to file a report or record required by
68 state or local law, ~~or knowingly~~ impeding or obstructing such
69 filing, or ~~knowingly~~ inducing another person to impede or
70 obstruct such filing.

71 (g) Failing to follow or to properly enforce applicable
72 building codes or permit requirements that the certificateholder
73 knew or should have known were applicable, or by committing
74 willful misconduct, gross negligence, gross misconduct, repeated
75 negligence, or negligence resulting in ~~a significant~~ danger to
76 life or property.

77 (h) Issuing a building permit to a contractor, or any
78 person representing himself or herself as a contractor, without
79 obtaining the contractor's certificate or registration number,
80 where ~~such~~ a certificate or registration is required.

81 (i) Failing to lawfully execute the duties and
82 responsibilities specified in this part and ss. 553.73, 553.781,
83 553.79, and 553.791.

84 (j) Performing building code inspection services under s.
 85 553.791 without satisfying the insurance requirements of that
 86 section.

87 (k) Obstructing an investigation or providing or inducing
 88 another to provide forged documents, false forensic evidence, or
 89 false testimony to a local or state board or member thereof or
 90 to a licensing investigator.

91 (l) Accepting labor, services, or materials for free or at
 92 a reduced rate from any person who performs work that may be
 93 under the enforcement authority of the enforcement official.

94 (2) When the board finds any person guilty of any of the
 95 grounds set forth in subsection (1), it may enter an order
 96 imposing one or more of the following penalties:

97 (a) Denial of an application for certification.

98 (b) Permanent revocation.

99 (c) Suspension of a certificate.

100 (d) Imposition of an administrative fine not to exceed
 101 \$10,000 ~~\$5,000~~ for each separate offense. Such fine must be
 102 rationally related to the gravity of the violation.

103 (e) Issuance of a reprimand.

104 (f) Placement of the certificateholder on probation for a
 105 period of time and subject to the ~~such~~ conditions as the board
 106 may impose, including alteration of performance level.

107 (g) Satisfactory completion of continuing education.

108 (h) Issuance of a citation.

109 (5) It is prima facie evidence that an enforcement
 110 official violated this section and acted with reckless disregard
 111 or deliberate ignorance if the enforcement official violates a

112 local or state permitting or licensing requirement that the
 113 enforcement official is charged with enforcing as a part of his
 114 or her official duties, regardless of whether the violation
 115 occurs within employment jurisdiction of the enforcement
 116 official or occurs in connection with the employment of the
 117 enforcement official or outside the scope of the employment of
 118 the enforcement official.

119 Section 3. Paragraph (b) of subsection (4) of section
 120 489.113, Florida Statutes, is amended to read:

121 489.113 Qualifications for practice; restrictions.--

122 (4)

123 (b) Notwithstanding ~~the provisions of~~ paragraph (a), a
 124 local construction regulation board may deny, suspend, or revoke
 125 the authority of a certified contractor to obtain a building
 126 permit or limit the ~~such~~ authority to obtaining a permit or
 127 permits with specific conditions, if the local construction
 128 regulation board has found the ~~such~~ contractor, through the
 129 public hearing process, to be guilty of fraud or a ~~willful~~
 130 building code violation within the county or municipality that
 131 the local construction regulation board represents or if the
 132 local construction regulation board has proof that the ~~such~~
 133 contractor, through the public hearing process, has been found
 134 guilty in another county or municipality within the past 12
 135 months, of fraud or a ~~willful~~ building code violation and finds,
 136 after providing notice of an opportunity to be heard to the
 137 contractor, that the ~~such~~ fraud or violation would have been
 138 fraud or a violation if committed in the county or municipality
 139 that the local construction board represents. Notification of

140 and information concerning the ~~such~~ permit denial shall be
 141 submitted to the department within 15 days after the local
 142 construction regulation board decides to deny the permit.

143 Section 4. Subsection (6) of section 489.115, Florida
 144 Statutes, is amended to read:

145 489.115 Certification and registration; endorsement;
 146 reciprocity; renewals; continuing education.--

147 (6) An initial applicant shall, along with the
 148 application, and a certificateholder or registrant shall, upon
 149 requesting a change of status, submit to the board a credit
 150 report from a nationally recognized credit agency that reflects
 151 the financial responsibility of the applicant or
 152 certificateholder or registrant. The credit report required for
 153 the initial applicant shall be considered the minimum evidence
 154 necessary to satisfy the board that he or she is financially
 155 responsible to be certified, has the necessary credit and
 156 business reputation to engage in contracting in the state, and
 157 has the minimum financial stability necessary to avoid the
 158 problem of financial mismanagement or misconduct. The board
 159 shall, by rule, adopt guidelines for determination of financial
 160 stability, which may include minimum requirements for net worth,
 161 cash, and bonding.

162 Section 5. Present paragraph (d) of subsection (4) of
 163 section 489.127, Florida Statutes, is redesignated as paragraph
 164 (e), a new paragraph (d) is added to that subsection, and
 165 paragraph (o) of subsection (5) of that section is amended, to
 166 read:

167 489.127 Prohibitions; penalties.--

168 (4)
 169 (d) A certified or registered contractor or a contractor
 170 authorized by a local construction licensing board may not
 171 perform work for which he or she is not properly licensed,
 172 subcontract to unlicensed persons to perform work that requires
 173 a license, or fail to obtain required permits.

174 (5) Each county or municipality may, at its option,
 175 designate one or more of its code enforcement officers, as
 176 defined in chapter 162, to enforce, as set out in this
 177 subsection, the provisions of subsection (1) and s. 489.132(1)
 178 against persons who engage in activity for which a county or
 179 municipal certificate of competency or license or state
 180 certification or registration is required.

181 (o) ~~Nothing in This subsection does not shall be construed~~
 182 ~~to~~ authorize local jurisdictions to exercise disciplinary
 183 authority, other than to issue civil citations, which are not
 184 considered discipline, or procedures established in this
 185 ~~subsection~~ against an individual holding a proper valid
 186 certificate issued under ~~pursuant to~~ this part.

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