

By Senator Baker

20-505-06

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

1 providing penalties when a licensed contractor
2 performs unlicensed activity, hires a
3 subcontractor to perform unlicensed activity,
4 or fails to obtain required permits; providing
5 that local jurisdictions may issue civil
6 citations; providing an effective date.
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8 Be It Enacted by the Legislature of the State of Florida:
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10 Section 1. Subsection (10) is added to section
11 468.619, Florida Statutes, to read:

12 468.619 Building code enforcement officials' bill of
13 rights.--

14 (10) This bill of rights does not apply when an
15 enforcement official is under investigation or the subject of
16 disciplinary proceedings for actions occurring outside the
17 scope of the employment of the enforcement official.

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

21 468.621 Disciplinary proceedings.--

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

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

27 (b) Obtaining certification through fraud, deceit, or
28 perjury.

29 (c) ~~Knowingly~~ Assisting any person practicing contrary
30 to ~~the provisions of~~:

31 1. This part; or

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

3 (d) Having been convicted of a felony against this
4 state or the United States, or of a felony in another state
5 that would have been a felony had it been committed in this
6 state.

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

10 (f) Making or filing a report or record that ~~which~~ the
11 certificateholder knew or should have known ~~knows~~ to be false,
12 ~~or knowingly~~ inducing another to file a false report or
13 record, ~~or knowingly~~ failing to file a report or record
14 required by state or local law, ~~or knowingly~~ impeding or
15 obstructing such filing, or ~~knowingly~~ inducing another person
16 to impede or obstruct such filing.

17 (g) Failing to follow or to properly enforce
18 applicable building codes or permit requirements that the
19 certificateholder knew or should have known were applicable,
20 or by committing willful misconduct, gross negligence, gross
21 misconduct, repeated negligence, or negligence resulting in ~~a~~
22 ~~significant~~ danger to life or property.

23 (h) Issuing a building permit to a contractor, or any
24 person representing himself or herself as a contractor,
25 without obtaining the contractor's certificate or registration
26 number, where ~~such~~ a certificate or registration is required.

27 (i) Failing to lawfully execute the duties and
28 responsibilities specified in this part and ss. 553.73,
29 553.781, 553.79, and 553.791.

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1 (j) Performing building code inspection services under
2 s. 553.791 without satisfying the insurance requirements of
3 that section.

4 (k) Obstructing an investigation, or providing or
5 inducing another to provide forged documents, false forensic
6 evidence, or false testimony to a local or state board or
7 member thereof, or to a licensing investigator.

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

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

15 (a) Denial of an application for certification.

16 (b) Permanent revocation.

17 (c) Suspension of a certificate.

18 (d) Imposition of an administrative fine not to exceed
19 ~~\$10,000~~~~\$5,000~~ for each separate offense. Such fine must be
20 rationally related to the gravity of the violation.

21 (e) Issuance of a reprimand.

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

25 (g) Satisfactory completion of continuing education.

26 (h) Issuance of a citation.

27 (5) It is prima facie evidence that an enforcement
28 official violated this section and acted with reckless
29 disregard or deliberate ignorance if the enforcement official
30 violates a local or state permitting or licensing requirement
31 that the enforcement official is charged with enforcing as a

1 part of his or her official duties, regardless of whether the
2 violation occurs within the employment jurisdiction of the
3 enforcement official or occurs in connection with the
4 employment of the enforcement official or outside the scope of
5 the employment of the enforcement official.

6 Section 3. Paragraph (b) of subsection (4) of section
7 489.113, Florida Statutes, is amended to read:

8 489.113 Qualifications for practice; restrictions.--

9 (4)

10 (b) Notwithstanding ~~the provisions of~~ paragraph (a), a
11 local construction regulation board may deny, suspend, or
12 revoke the authority of a certified contractor to obtain a
13 building permit or limit the such authority to obtaining a
14 permit or permits with specific conditions, if the local
15 construction regulation board has found the such contractor,
16 through the public hearing process, to be guilty of fraud or a
17 ~~willful~~ building code violation within the county or
18 municipality that the local construction regulation board
19 represents or if the local construction regulation board has
20 proof that the such contractor, through the public hearing
21 process, has been found guilty in another county or
22 municipality within the past 12 months, of fraud or a ~~willful~~
23 building code violation and finds, after providing notice of
24 an opportunity to be heard to the contractor, that the such
25 fraud or violation would have been fraud or a violation if
26 committed in the county or municipality that the local
27 construction board represents. Notification of and information
28 concerning the such permit denial shall be submitted to the
29 department within 15 days after the local construction
30 regulation board decides to deny the permit.

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

3 489.115 Certification and registration; endorsement;
4 reciprocity; renewals; continuing education.--

5 (6) An initial applicant shall, along with the
6 application, and a certificateholder or registrant shall, upon
7 requesting a change of status, submit to the board a credit
8 report from a nationally recognized credit agency that
9 reflects the financial responsibility of the applicant or
10 certificateholder or registrant. The credit report required
11 for the initial applicant shall be considered the minimum
12 evidence necessary to satisfy the board that he or she is
13 financially responsible to be certified, has the necessary
14 credit and business reputation to engage in contracting in the
15 state, and has the minimum financial stability necessary to
16 avoid the problem of financial mismanagement or misconduct.
17 The board shall, by rule, adopt guidelines for determination
18 of financial stability, which may include minimum requirements
19 for net worth, cash, and bonding.

20 Section 5. Present paragraph (d) of subsection (4) of
21 section 489.127, Florida Statutes, is redesignated as
22 paragraph (e), a new paragraph (d) is added to that
23 subsection, and paragraph (o) of subsection (5) of that
24 section is amended, to read:

25 489.127 Prohibitions; penalties.--

26 (4)

27 (d) A certified or registered contractor or a
28 contractor authorized by a local construction licensing board
29 may not perform work for which he or she is not properly
30 licensed, subcontract to unlicensed persons to perform work
31 that requires a license, or fail to obtain required permits.

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

8 (o) ~~Nothing in This subsection does not shall be~~
9 ~~construed to~~ authorize local jurisdictions to exercise
10 disciplinary authority, other than to issue civil citations,
11 which are not considered discipline, or procedures established
12 ~~in this subsection~~ against an individual holding a proper
13 valid certificate issued under ~~pursuant to~~ this part.

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

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17 SENATE SUMMARY

18 Provides that the building code enforcement officials'
19 bill of rights does not apply when the official is under
20 investigation or being disciplined for actions outside
21 the scope of employment. Provides additional violations
22 and grounds for discipline. Provides that violating a
23 provision of the local or state permitting or licensing
24 requirements is prima facie evidence that the official
25 acted with reckless disregard or deliberate ignorance.
26 Provides a maximum administrative fine of \$10,000 per
27 violation. Provides that violations of building codes by
28 contractors need not be willful. Specifies that
29 guidelines for determining financial stability may
30 include minimum requirements for net worth, cash, and
31 bonding. Provides penalties when a licensed contractor
performs unlicensed activity or fails to obtain required
permits. Provides that local jurisdictions may issue
civil citations.