

1 A bill to be entitled
2 An act relating to construction contracting; amending s.
3 489.105, F.S.; providing that the term "initial issuance"
4 no longer refers to a business organization; amending s.
5 489.109, F.S.; deleting a fee relating to transfer of a
6 certificate of authority; amending s. 489.114, F.S.;
7 providing that demonstration of workers' compensation
8 coverage is required for both certification and
9 registration of building contractors; removing reference
10 to certificate of authority; amending s. 489.115, F.S.;
11 deleting the requirement for the Construction Industry
12 Licensing Board to determine financial responsibility of
13 applicants for initial licensure based upon submission of
14 certain documents; providing for applicability of certain
15 continuing education courses for certain dually licensed
16 contractors; revising requirements for criminal history
17 background checks; deleting requirement for the Department
18 of Business and Professional Regulation to submit requests
19 for criminal history records checks; requiring applicant
20 to submit fingerprint cards through authorized agencies or
21 vendors; requiring such agencies or vendors to pay for
22 processing and costs; providing for review of results by
23 department and board; providing for use of information by
24 the board in determination of licensure qualification;
25 requiring submission of bond as prerequisite for initial
26 certification or registration; providing for amount of and
27 requirements for such bond; requiring the bond to remain
28 in force unless license is revoked or becomes inactive;

29 providing for bringing actions on the bond or letter of
30 credit for damages; providing timeframe for such actions;
31 providing that failure to maintain bond results in
32 placement of license on inactive status and possible
33 disciplinary action; providing for bond cancellation by
34 surety; providing requirement for notification to the
35 department by surety; providing continuation of bond
36 coverage for period of time after cancellation notice;
37 requiring that surety bond be assigned to the state;
38 providing that irrevocable letter of credit may be used in
39 lieu of a bond; providing for the amount of such letter of
40 credit; requiring the irrevocable letter of credit be
41 assigned to the department; providing for the collection
42 of interest on the letter of credit; providing for payment
43 from the letter or credit by department based on certain
44 judgments or orders; providing timeframe for such claims;
45 amending s. 489.119, F.S.; requiring an applicant apply to
46 qualify a business organization; removing requirement for
47 a business organization to apply for a certificate of
48 authority; deleting requirements for applications for a
49 financially responsible officer and for secondary
50 qualifying agent; providing grounds for denial of
51 application to qualify business organization; removing
52 references to and requirements for a certificate of
53 authority; providing requirements for qualifying agent;
54 amending ss. 489.1195 and 489.127, F.S.; making conforming
55 changes; amending s. 489.128, F.S.; providing clarifying
56 language related to contracts; making conforming changes;

57 | amending s. 489.129, F.S.; making conforming changes;
 58 | adding requirement for a surety bond or irrevocable letter
 59 | of credit to disciplinary actions available to the board;
 60 | amending s. 489.132, F.S.; making conforming changes;
 61 | amending s. 489.140, F.S.; providing a time certain for
 62 | ending funding of the Florida Homeowners' Construction
 63 | Recovery Fund; providing that all funds remaining at the
 64 | time be transferred to the board for certain uses;
 65 | amending s. 489.1401, F.S.; providing legislative intent
 66 | with respect to the recovery fund; providing an effective
 67 | date.

68 |

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

70 |

71 | Section 1. Subsection (19) of section 489.105, Florida
 72 | Statutes, is amended to read:

73 | 489.105 Definitions.--As used in this part:

74 | (19) "Initial issuance" means the first time a certificate
 75 | or registration is granted to an individual ~~or business~~
 76 | ~~organization~~, including the first time an individual becomes a
 77 | qualifying agent for a ~~that~~ business organization and the first
 78 | time a business organization is qualified by that individual.

79 | Section 2. Paragraphs (d) through (g) of subsection (1) of
 80 | section 489.109, Florida Statutes, are amended to read:

81 | 489.109 Fees.--

82 | (1) The board, by rule, shall establish reasonable fees to
 83 | be paid for applications, certification and renewal,

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84 registration and renewal, and recordmaking and recordkeeping.

85 The fees shall be established as follows:

86 ~~(d) The board, by rule, may establish a fee for transfer~~
87 ~~of a certificate of authority from one business organization to~~
88 ~~another, not to exceed the applicable renewal fee.~~

89 (d)~~(e)~~ The board, by rule, shall impose a renewal fee for
90 an inactive status certificate or registration, not to exceed
91 the renewal fee for an active status certificate or
92 registration. Neither the inactive certification fee nor the
93 inactive registration fee may exceed \$50. The board, by rule,
94 may provide for a different fee for inactive status where such
95 status is sought by a building code administrator, plans
96 examiner, or inspector certified pursuant to part XII of chapter
97 468 who is employed by a local government and is not allowed by
98 the terms of such employment to maintain a certificate on active
99 status issued pursuant to this part.

100 (e)~~(f)~~ The board, by rule, shall impose an additional late
101 fee on a delinquent status certificateholder or registrant when
102 such certificateholder or registrant applies for active or
103 inactive status.

104 (f)~~(g)~~ The board, by rule, shall impose an additional fee,
105 not to exceed the applicable renewal fee, which reasonably
106 reflects the costs of processing a certificateholder's or
107 registrant's request to change licensure status at any time
108 other than at the beginning of a licensure cycle.

109 Section 3. Section 489.114, Florida Statutes, is amended
110 to read:

111 489.114 Evidence of workers' compensation
 112 coverage.--Except as provided in s. 489.115(5) (c) ~~(d)~~, any
 113 person, business organization, or qualifying agent engaged in
 114 the business of contracting in this state and certified or
 115 registered under this part shall, as a condition precedent to
 116 the issuance or renewal of a certificate or ~~registration, or~~
 117 ~~certificate of authority~~ of the contractor, provide to the
 118 Construction Industry Licensing Board, as provided by board
 119 rule, evidence of workers' compensation coverage pursuant to
 120 chapter 440. In the event that the Division of Workers'
 121 Compensation of the Department of Financial Services receives
 122 notice of the cancellation of a policy of workers' compensation
 123 insurance insuring a person or entity governed by this section,
 124 the Division of Workers' Compensation shall certify and identify
 125 all persons or entities by certification or registration license
 126 number to the department after verification is made by the
 127 Division of Workers' Compensation that persons or entities
 128 governed by this section are no longer covered by workers'
 129 compensation insurance. Such certification and verification by
 130 the Division of Workers' Compensation may result from records
 131 furnished to the Division of Workers' Compensation by the
 132 persons or entities governed by this section or an investigation
 133 completed by the Division of Workers' Compensation. The
 134 department shall notify the persons or entities governed by this
 135 section who have been determined to be in noncompliance with
 136 chapter 440, and the persons or entities notified shall provide
 137 certification of compliance with chapter 440 to the department
 138 and pay an administrative fine in the amount of \$500. The

139 failure to maintain workers' compensation coverage as required
 140 by law shall be grounds for the board to revoke, suspend, or
 141 deny the issuance or renewal of a certificate or, registration,
 142 ~~or certificate of authority~~ of the contractor under the
 143 provisions of s. 489.129.

144 Section 4. Paragraphs (b), (c), and (d) of subsection (5)
 145 and subsections (6) through (9) of section 489.115, Florida
 146 Statutes, are amended to read:

147 489.115 Certification and registration; endorsement;
 148 reciprocity; renewals; continuing education.--

149 (5)

150 ~~(b) In addition to the affidavit of insurance, as a~~
 151 ~~prerequisite to the initial issuance of a certificate, the~~
 152 ~~applicant shall furnish a credit report from a nationally~~
 153 ~~recognized credit agency that reflects the financial~~
 154 ~~responsibility of the applicant and evidence of financial~~
 155 ~~responsibility, credit, and business reputation of either~~
 156 ~~himself or herself or the business organization he or she~~
 157 ~~desires to qualify. The board shall adopt rules defining~~
 158 ~~financial responsibility based upon the applicant's credit~~
 159 ~~history, ability to be bonded, and any history of bankruptcy or~~
 160 ~~assignment of receivers. The board may also adopt rules that~~
 161 ~~would allow applicants to demonstrate financial responsibility,~~
 162 ~~as an alternative to the foregoing, by providing minimum credit~~
 163 ~~scores or bonds payable as prescribed for financially~~
 164 ~~responsible officers. Such rules shall specify the financial~~
 165 ~~responsibility grounds on which the board may refuse to qualify~~
 166 ~~an applicant for certification.~~

167 (b)~~(e)~~ If, within 60 days from the date the applicant is
 168 notified that he or she has qualified, he or she does not
 169 provide the evidence required, he or she shall apply to the
 170 department for an extension of time which shall be granted upon
 171 a showing of just cause.

172 (c)~~(d)~~ An applicant for initial issuance of a certificate
 173 or registration shall submit as a prerequisite to qualifying for
 174 an exemption from workers' compensation coverage requirements
 175 under s. 440.05 an affidavit attesting to the fact that the
 176 applicant will obtain an exemption within 30 days after the date
 177 the initial certificate or registration is issued by the board.

178 (6) If a certificateholder or registrant holds a license
 179 under this part and part II and is required to have continuing
 180 education courses under s. 489.517(3), the certificateholder or
 181 registrant may apply those course hours for workers'
 182 compensation, workplace safety, and business practices obtained
 183 under part II to the requirements under this part. An applicant
 184 ~~for initial issuance of a certificate or registration shall~~
 185 ~~submit to a statewide criminal history records check through the~~
 186 ~~Department of Law Enforcement. The Department of Business and~~
 187 ~~Professional Regulation shall submit the requests for the~~
 188 ~~criminal history records check to the Department of Law~~
 189 ~~Enforcement for state processing, and the Department of Law~~
 190 ~~Enforcement shall return the results to the department to~~
 191 ~~determine if the applicant meets certification or registration~~
 192 ~~requirements. If the applicant has been convicted of a felony,~~
 193 ~~the board may deny licensure to the applicant based upon the~~
 194 ~~severity of the crime, the relationship of the crime to~~

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195 ~~contracting, or the potential for public harm. The board shall~~
196 ~~also, in denying or approving licensure, consider the length of~~
197 ~~time since the commission of the crime and the rehabilitation of~~
198 ~~the applicant. The board may not deny licensure to an applicant~~
199 ~~based solely upon a felony conviction or the applicant's failure~~
200 ~~to provide proof of restoration of civil rights.~~

201 (7) (a) An initial applicant shall submit, along with the
202 application, a complete set of fingerprints in the form and
203 manner required by the department. The fingerprints shall be
204 submitted to the Department of Law Enforcement for state
205 processing, and the Department of Law Enforcement shall forward
206 the fingerprints to the Federal Bureau of Investigation for the
207 purpose of conducting a level 2 background check pursuant to s.
208 435.04. The department shall and the board may review the
209 background results to determine if an applicant meets licensure
210 requirements. The cost for the fingerprint processing shall be
211 borne by the person subject to the background screening. These
212 fees are to be collected by the authorized agencies or vendors.
213 The authorized agencies or vendors are responsible for paying
214 the processing costs to the Department of Law Enforcement. ~~and a~~
215 ~~certificateholder or registrant shall, upon requesting a change~~
216 ~~of status, submit to the board a credit report from a nationally~~
217 ~~recognized credit agency that reflects the financial~~
218 ~~responsibility of the applicant or certificateholder or~~
219 ~~registrant. The credit report required for the initial applicant~~
220 ~~shall be considered the minimum evidence necessary to satisfy~~
221 ~~the board that he or she is financially responsible to be~~
222 ~~certified, has the necessary credit and business reputation to~~

223 ~~engage in contracting in the state, and has the minimum~~
224 ~~financial stability necessary to avoid the problem of financial~~
225 ~~mismanagement or misconduct. The board shall, by rule, adopt~~
226 ~~guidelines for determination of financial stability, which may~~
227 ~~include minimum requirements for net worth, cash, and bonding~~
228 ~~for Division I certificateholders of no more than \$20,000 and~~
229 ~~for Division II certificateholders of no more than \$10,000.~~
230 ~~Fifty percent of the financial requirements may be met by~~
231 ~~completing a 14 hour financial responsibility course approved by~~
232 ~~the board.~~

233 (b) If an applicant has been convicted of a felony, the
234 board may deny licensure to the applicant based upon the
235 severity of the crime, the relationship of the crime to
236 contracting, or the potential for public harm. The board shall
237 also, in denying or approving licensure, consider the length of
238 time since the commission of the crime and the rehabilitation of
239 the applicant. The board may not deny licensure to an applicant
240 based solely upon a felony conviction or the applicant's failure
241 to provide proof of restoration of civil rights. This paragraph
242 does not prevent the board from denying licensure to an
243 applicant based upon a lack of good moral character or a
244 conviction of a crime related to contracting.

245 (8) (a) As a prerequisite to the initial issuance of a
246 certificate or registration, the applicant shall submit or have
247 on file a bond on a form provided by the department with a
248 surety admitted to write insurance in the state naming the State
249 of Florida as obligee. A separate bond shall be required for
250 each business organization qualified by the certificateholder or

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251 registrant, including licenses held in an individual status. The
252 bond shall remain in full force and effect unless the license is
253 revoked or placed on inactive status. An applicant shall not be
254 required to provide any further evidence of financial
255 responsibility in order to obtain licensure.

256 (b) The bond shall be for the use and benefit of any
257 person who contracts with the certificateholder or registrant
258 for the performance of work that would require a license
259 pursuant to ch. 489, including subcontractors and suppliers that
260 supply labor and materials for that work. These persons may
261 bring an action directly on the bond for damages resulting from
262 acts by the certificateholder or the registrant that would
263 constitute a violation of s. 489.129(1). Any such action must be
264 brought within 2 years after the earlier of the date on which
265 the bond terminates, expires, or is canceled, or the date the
266 certificateholder or the registrant committed the breach.

267 (c) The penal sum of the bond shall be \$75,000 for both
268 the certificateholder and the registrant, and the aggregate
269 liability of the surety, including any liability for attorney's
270 fees by contract or statute, shall not exceed the penal sum
271 without regard to the number of years the bond was in force, the
272 number of premiums paid, or the number of claims or claimants.
273 Failure to maintain the bond shall result in the
274 certificateholder's or registrant's license being placed on
275 inactive status and possible disciplinary action.

276 (d) The surety may cancel the bond upon not less than 30
277 days' written notice to the department, but the surety shall

278 remain liable for any damages arising out of a contract entered
 279 into prior to the effective date of such cancellation.

280 (e) An irrevocable letter of credit may be furnished to
 281 the department in lieu of the aforementioned bond requirement.
 282 The letter of credit shall be for \$75,000 and assigned to the
 283 department. The certificateholder and the registrant shall be
 284 allowed to collect all interest on the letter of credit. Injured
 285 consumers shall apply to the department for payment from the
 286 letters of credit after securing a civil judgment or criminal
 287 order of restitution based upon a violation of s. 489.129(1).
 288 The claim for recovery must be filed within 1 year after the
 289 conclusion of the civil or criminal action. ~~If a~~

290 ~~certificateholder or registrant holds a license under both this~~
 291 ~~part and part II and is required to have continuing education~~
 292 ~~courses under s. 489.517(3), the certificateholder or registrant~~
 293 ~~may apply those course hours for workers' compensation,~~
 294 ~~workplace safety, and business practices obtained under part II~~
 295 ~~to the requirements under this part.~~

296 ~~(9) An initial applicant shall submit, along with the~~
 297 ~~application, a complete set of fingerprints in a form and manner~~
 298 ~~required by the department. The fingerprints shall be submitted~~
 299 ~~to the Department of Law Enforcement for state processing, and~~
 300 ~~the Department of Law Enforcement shall forward them to the~~
 301 ~~Federal Bureau of Investigation for the purpose of conducting a~~
 302 ~~level 2 background check pursuant to s. 435.04. The department~~
 303 ~~shall and the board may review the background results to~~
 304 ~~determine if an applicant meets licensure requirements. The cost~~
 305 ~~for the fingerprint processing shall be borne by the person~~

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306 ~~subject to the background screening. These fees are to be~~
307 ~~collected by the authorized agencies or vendors. The authorized~~
308 ~~agencies or vendors are responsible for paying the processing~~
309 ~~costs to the Department of Law Enforcement.~~

310 Section 5. Section 489.119, Florida Statutes, is amended
311 to read:

312 489.119 Business organizations; qualifying agents.--

313 (1) If an individual proposes to engage in contracting in
314 the individual's own name, or a fictitious name where the
315 individual is doing business as a sole proprietorship,
316 registration or certification may be issued only to that
317 individual.

318 (2) If the applicant proposes to engage in contracting as
319 a business organization, including any partnership, corporation,
320 business trust, or other legal entity, or in any name other than
321 the applicant's legal name or a fictitious name where the
322 applicant is doing business as a sole proprietorship, the
323 applicant business organization must apply to qualify the
324 business organization ~~for a certificate of authority through a~~
325 ~~qualifying agent and under the fictitious name, if any.~~

326 (a) The application to qualify a business organization ~~for~~
327 ~~a certificate of authority~~ must state the name of the
328 partnership and of its partners; the name of the corporation and
329 of its officers and directors and the name of each of its
330 stockholders who is also an officer or director; the name of the
331 business trust and its trustees; or the name of such other legal
332 entity and its members; and must state the fictitious name, if
333 any, under which the business organization is doing business.

334 (b)1. The application to qualify a business organization
 335 ~~for primary qualifying agent~~ must include an affidavit on a form
 336 provided by the board attesting that the applicant has final
 337 approval authority for all construction work performed by the
 338 entity and that the applicant has final approval authority on
 339 all business matters, including contracts, specifications,
 340 checks, drafts, or payments, regardless of the form of payment,
 341 made by the entity, ~~except where a financially responsible~~
 342 ~~officer is approved.~~

343 ~~2.~~ ~~The application for financially responsible officer~~
 344 ~~must include an affidavit on a form provided by the board~~
 345 ~~attesting that the applicant's approval is required for all~~
 346 ~~checks, drafts, or payments, regardless of the form of payment,~~
 347 ~~made by the entity and that the applicant has authority to act~~
 348 ~~for the business organization in all financial matters.~~

349 ~~3.~~ ~~The application for secondary qualifying agent must~~
 350 ~~include an affidavit on a form provided by the board attesting~~
 351 ~~that the applicant has authority to supervise all construction~~
 352 ~~work performed by the entity as provided in s. 489.1195(2).~~

353 (c) The board may deny the application to qualify the
 354 business organization if any person cited in this subsection has
 355 been involved in past disciplinary actions or on any grounds for
 356 which individual certification can be denied.

357 (d) ~~(b)~~ The applicant must furnish evidence of statutory
 358 compliance if a fictitious name is used, the provisions of s.
 359 865.09(7) notwithstanding.

360 (e) ~~(e)~~ A joint venture, including a joint venture composed
 361 of qualified business organizations, is itself a separate and

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362 distinct organization that must be qualified ~~and obtain a~~
363 ~~certificate of authority~~ in accordance with board rules.

364 ~~(d) A certificate of authority must be renewed every 2~~
365 ~~years. If there is a change in any information that is required~~
366 ~~to be stated on the application, the business organization~~
367 ~~shall, within 45 days after such change occurs, mail the correct~~
368 ~~information to the department.~~

369 (3) (a) ~~The qualifying agent shall be certified or~~
370 ~~registered under this part in order for the business~~
371 ~~organization to be issued a certificate of authority in the~~
372 ~~category of the business conducted for which the qualifying~~
373 ~~agent is certified or registered. If any qualifying agent ceases~~
374 ~~to be affiliated with a such business organization, he or she~~
375 ~~shall ~~se~~ inform the department. In addition, if the ~~such~~~~
376 ~~qualifying agent is the only certified or registered contractor~~
377 ~~affiliated with the business organization, the business~~
378 ~~organization shall notify the department of the termination of~~
379 ~~the qualifying agent and shall have 60 days from the termination~~
380 ~~of the qualifying agent's affiliation with the business~~
381 ~~organization in which to employ another qualifying agent. The~~
382 ~~business organization may not engage in contracting until a~~
383 ~~qualifying agent is employed, unless the executive director or~~
384 ~~chair of the board has granted a temporary nonrenewable~~
385 ~~certificate or registration to the financially responsible~~
386 ~~officer, the president, a partner, or, in the case of a limited~~
387 ~~partnership, the general partner, who assumes all~~
388 ~~responsibilities of a primary qualifying agent for the entity.~~
389 This temporary certificate or registration shall only allow the

390 entity to proceed with incomplete contracts. For the purposes of
391 this paragraph, an incomplete contract is one which has been
392 awarded to, or entered into by, the business organization prior
393 to the cessation of affiliation of the qualifying agent with the
394 business organization or one on which the business organization
395 was the low bidder and the contract is subsequently awarded,
396 regardless of whether any actual work has commenced under the
397 contract prior to the qualifying agent ceasing to be affiliated
398 with the business organization.

399 (b) The qualifying agent shall inform the department in
400 writing when he or she proposes to engage in contracting in his
401 or her own name or in affiliation with another business
402 organization, and he or she or such new business organization
403 shall supply the same information to the department as required
404 of applicants under this part.

405 ~~(c) Upon a favorable determination by the board, after~~
406 ~~investigation of the financial responsibility, credit, and~~
407 ~~business reputation of the qualifying agent and the new business~~
408 ~~organization, the department shall issue, without an~~
409 ~~examination, a new certificate of authority in the business~~
410 ~~organization's name.~~

411 ~~(4) Disciplinary action against a business organization~~
412 ~~holding a certificate of authority shall be administered in the~~
413 ~~same manner and on the same grounds as disciplinary action~~
414 ~~against a contractor. The board may deny the certification of~~
415 ~~any person cited in subsection (2) if the person has been~~
416 ~~involved in past disciplinary actions or on any grounds for~~
417 ~~which individual certification can be denied.~~

418 (4)~~(5)~~ When a certified qualifying agent, on behalf of a
 419 business organization, makes application for an occupational
 420 license in any municipality or county of this state, the
 421 application shall be made with the tax collector in the name of
 422 the business organization and the qualifying agent; and the
 423 license, when issued, shall be issued to the business
 424 organization, upon payment of the appropriate licensing fee and
 425 exhibition to the tax collector of a valid certificate for the
 426 qualifying agent ~~and a valid certificate of authority for the~~
 427 ~~business organization~~ issued by the department, and the state
 428 license number ~~numbers~~ shall be noted thereon.

429 (5)~~(6)~~(a) Each registered or certified contractor shall
 430 affix the number of his or her registration or certification to
 431 each application for a building permit and on each building
 432 permit issued and recorded. Each city or county building
 433 department shall require, as a precondition for the issuance of
 434 the building permit, that the contractor taking out the permit
 435 must provide verification giving his or her Construction
 436 Industry Licensing Board registration or certification number.

437 (b) The registration or certification number of each
 438 contractor ~~or certificate of authority number~~ for each business
 439 organization shall appear in each offer of services, business
 440 proposal, bid, contract, or advertisement, regardless of medium,
 441 as defined by board rule, used by that contractor or business
 442 organization in the practice of contracting.

443 (c) If a vehicle bears the name of a contractor or
 444 business organization, or any text or artwork which would lead a
 445 reasonable person to believe that the vehicle is used for

446 contracting, the registration or certification number of the
447 contractor ~~or certificate of authority number of the business~~
448 ~~organization~~ must be conspicuously and legibly displayed with
449 the name, text, or artwork. Local governments may also require
450 that locally licensed contractors must also display their
451 certificate of competency or license numbers. Nothing in this
452 paragraph shall be construed to create a mandatory vehicle
453 signage requirement.

454 (d) For the purposes of this part, the term
455 "advertisement" does not include business stationery or any
456 promotional novelties such as balloons, pencils, trinkets, or
457 articles of clothing.

458 (e) The board shall issue a notice of noncompliance for
459 the first offense, and may assess a fine or issue a citation for
460 failure to correct the offense within 30 days or for any
461 subsequent offense, to any contractor or business organization
462 that fails to include the certification or, ~~registration, or~~
463 ~~certificate of authority~~ number as required by this part when
464 submitting an advertisement for publication, broadcast, or
465 printing or fails to display the certification or, ~~registration,~~
466 ~~or certificate of authority~~ number as required by this part.

467 ~~(6)(7)~~ Each qualifying agent shall pay the department an
468 amount equal to the original fee to qualify for a certificate of
469 ~~authority of~~ a new business organization. If the qualifying
470 agent for a business organization desires to qualify additional
471 business organizations, the board shall require him or her to
472 present evidence of his or her ability to supervise the
473 construction activities ~~and financial responsibility~~ of each

474 such organization. Approval for each business organization ~~The~~
475 ~~issuance of such certificate of authority~~ is discretionary with
476 the board.

477 (7)~~(8)~~(a) A business organization proposing to engage in
478 contracting is not required to apply for or obtain authorization
479 under this part to engage in contracting if:

480 1. The business organization employs one or more
481 registered or certified contractors licensed in accordance with
482 this part who are responsible for obtaining permits and
483 supervising all of the business organization's contracting
484 activities;

485 2. The business organization engages only in contracting
486 on property owned by the business organization or by its parent,
487 subsidiary, or affiliated entities; and

488 3. The business organization, or its parent entity if the
489 business organization is a wholly owned subsidiary, maintains a
490 minimum net worth of \$20 million.

491 (b) Any business organization engaging in contracting
492 under this subsection shall provide the board with the name and
493 license number of each registered or certified contractor
494 employed by the business organization to supervise its
495 contracting activities. The business organization is not
496 required to post a bond or otherwise evidence any financial or
497 credit information except as necessary to demonstrate compliance
498 with paragraph (a).

499 (c) A registered or certified contractor employed by a
500 business organization to supervise its contracting activities
501 under this subsection shall not be required to post a bond or

502 otherwise evidence any personal financial or credit information
 503 so long as the individual performs contracting activities
 504 exclusively on behalf of a business organization meeting all of
 505 the requirements of paragraph (a).

506 Section 6. Subsection (1) of section 489.1195, Florida
 507 Statutes, is amended to read:

508 489.1195 Responsibilities.--

509 (1) The board shall not approve secondary qualifying
 510 agents or financially responsible officers after June 30, 2008.
 511 ~~A qualifying agent is a primary qualifying agent unless he or~~
 512 ~~she is a secondary qualifying agent under this section.~~

513 (a) All primary qualifying agents for a business
 514 organization are jointly and equally responsible for supervision
 515 of all operations of the business organization; for all field
 516 work at all sites; and for financial matters, both for the
 517 organization in general and for each specific job.

518 (b) Upon approval by the board, a business entity may
 519 designate a financially responsible officer for purposes of
 520 certification or registration. A financially responsible officer
 521 shall be responsible for all financial aspects of the business
 522 organization and may not be designated as the primary qualifying
 523 agent. The designated financially responsible officer shall
 524 furnish evidence of the financial responsibility, credit, and
 525 business reputation of either himself or herself, or the
 526 business organization he or she desires to qualify, as
 527 determined appropriate by the board.

528 (c) Where a business organization has a certified or
 529 registered financially responsible officer, the primary

530 qualifying agent shall be responsible for all construction
 531 activities of the business organization, both in general and for
 532 each specific job.

533 (d) The board shall adopt rules prescribing the
 534 qualifications for financially responsible officers, including
 535 net worth, cash, and bonding requirements. These qualifications
 536 must be at least as extensive as the requirements for the
 537 financial responsibility of qualifying agents.

538 Section 7. Subsection (1) of section 489.127, Florida
 539 Statutes, is amended to read:

540 489.127 Prohibitions; penalties.--

541 (1) No person shall:

542 (a) Falsely hold himself or herself or a business
 543 organization out as a licensee, certificateholder, or
 544 registrant;

545 (b) Falsely impersonate a certificateholder or registrant;

546 (c) Present as his or her own the certificate or
 547 registration, ~~or certificate of authority~~ of another;

548 (d) Knowingly give false or forged evidence to the board
 549 or a member thereof;

550 (e) Use or attempt to use a certificate or registration,
 551 ~~or certificate of authority~~ which has been suspended or revoked;

552 (f) Engage in the business or act in the capacity of a
 553 contractor or advertise himself or herself or a business
 554 organization as available to engage in the business or act in
 555 the capacity of a contractor without being duly registered or
 556 certified ~~or having a certificate of authority~~;

557 (g) Operate a business organization engaged in contracting
 558 after 60 days following the termination of its only qualifying
 559 agent without designating another primary qualifying agent,
 560 except as provided in ss. 489.119 and 489.1195;

561 (h) Commence or perform work for which a building permit
 562 is required pursuant to part VII of chapter 553 without such
 563 building permit being in effect; or

564 (i) Willfully or deliberately disregard or violate any
 565 municipal or county ordinance relating to uncertified or
 566 unregistered contractors.

567

568 For purposes of this subsection, a person or business
 569 organization operating on an inactive or suspended certificate
 570 or, registration, ~~or certificate of authority~~ is not duly
 571 certified or registered and is considered unlicensed. A business
 572 tax receipt issued under the authority of chapter 205 is not a
 573 license for purposes of this part.

574 Section 8. Paragraph (b) of subsection (1) of section
 575 489.128, Florida Statutes, is amended to read:

576 489.128 Contracts entered into by unlicensed contractors
 577 unenforceable.--

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

582 (b) For purposes of this section, an individual or
 583 business organization may not be considered unlicensed for
 584 failing to have a business tax receipt issued under the

585 authority of chapter 205. A business organization may not be
 586 considered unlicensed for failing to have a certificate of
 587 authority as formerly required by ss. 489.119 and 489.127. For
 588 purposes of this section, a business organization entering into
 589 the contract may not be considered unlicensed if, before the
 590 date established by paragraph (c), an individual possessing a
 591 license required by this part concerning the scope of the work
 592 to be performed under the contract has submitted an application
 593 ~~for a certificate of authority~~ designating that individual as a
 594 qualifying agent for the business organization entering into the
 595 contract, and the application was not acted upon by the
 596 department or applicable board within the time limitations
 597 imposed by s. 120.60.

598 Section 9. Subsections (1), (5), and (7) of section
 599 489.129, Florida Statutes, are amended to read:

600 489.129 Disciplinary proceedings.--

601 (1) The board may take any of the following actions
 602 against any certificateholder or registrant: place on probation
 603 or reprimand the licensee, revoke, suspend, or deny the issuance
 604 or renewal of the certificate or registration, ~~or certificate~~
 605 ~~of authority~~, require financial restitution to a consumer for
 606 financial harm directly related to a violation of a provision of
 607 this part, require the surety licensing bond or irrevocable
 608 letter of credit as provided for in s. 489.115(8), impose an
 609 administrative fine not to exceed \$10,000 per violation, require
 610 continuing education, or assess costs associated with
 611 investigation and prosecution, if the contractor, financially
 612 responsible officer, or business organization for which the

613 contractor is a primary qualifying agent, a financially
 614 responsible officer, or a secondary qualifying agent responsible
 615 under s. 489.1195 is found guilty of any of the following acts:

616 (a) Obtaining a certificate or, registration, ~~or~~
 617 ~~certificate of authority~~ by fraud or misrepresentation.

618 (b) Being convicted or found guilty of, or entering a plea
 619 of nolo contendere to, regardless of adjudication, a crime in
 620 any jurisdiction which directly relates to the practice of
 621 contracting or the ability to practice contracting.

622 (c) Violating any provision of chapter 455.

623 (d) Performing any act which assists a person or entity in
 624 engaging in the prohibited uncertified and unregistered practice
 625 of contracting, if the certificateholder or registrant knows or
 626 has reasonable grounds to know that the person or entity was
 627 uncertified and unregistered.

628 (e) Knowingly combining or conspiring with an uncertified
 629 or unregistered person by allowing his or her certificate or
 630 registration, ~~or certificate of authority~~ to be used by the
 631 uncertified or unregistered person with intent to evade the
 632 provisions of this part. When a certificateholder or registrant
 633 allows his or her certificate or registration to be used by one
 634 or more business organizations without having any active
 635 participation in the operations, management, or control of such
 636 business organizations, such act constitutes prima facie
 637 evidence of an intent to evade the provisions of this part.

638 (f) Acting in the capacity of a contractor under any
 639 certificate or registration issued hereunder except in the name
 640 of the certificateholder or registrant as set forth on the

641 issued certificate or registration, or in accordance with the
642 personnel of the certificateholder or registrant as set forth in
643 the application for the certificate or registration, or as later
644 changed as provided in this part.

645 (g) Committing mismanagement or misconduct in the practice
646 of contracting that causes financial harm to a customer.

647 Financial mismanagement or misconduct occurs when:

648 1. Valid liens have been recorded against the property of
649 a contractor's customer for supplies or services ordered by the
650 contractor for the customer's job; the contractor has received
651 funds from the customer to pay for the supplies or services; and
652 the contractor has not had the liens removed from the property,
653 by payment or by bond, within 75 days after the date of such
654 liens;

655 2. The contractor has abandoned a customer's job and the
656 percentage of completion is less than the percentage of the
657 total contract price paid to the contractor as of the time of
658 abandonment, unless the contractor is entitled to retain such
659 funds under the terms of the contract or refunds the excess
660 funds within 30 days after the date the job is abandoned; or

661 3. The contractor's job has been completed, and it is
662 shown that the customer has had to pay more for the contracted
663 job than the original contract price, as adjusted for subsequent
664 change orders, unless such increase in cost was the result of
665 circumstances beyond the control of the contractor, was the
666 result of circumstances caused by the customer, or was otherwise
667 permitted by the terms of the contract between the contractor
668 and the customer.

669 (h) Being disciplined by any municipality or county for an
670 act or violation of this part.

671 (i) Failing in any material respect to comply with the
672 provisions of this part or violating a rule or lawful order of
673 the board.

674 (j) Abandoning a construction project in which the
675 contractor is engaged or under contract as a contractor. A
676 project may be presumed abandoned after 90 days if the
677 contractor terminates the project without just cause or without
678 proper notification to the owner, including the reason for
679 termination, or fails to perform work without just cause for 90
680 consecutive days.

681 (k) Signing a statement with respect to a project or
682 contract falsely indicating that the work is bonded; falsely
683 indicating that payment has been made for all subcontracted
684 work, labor, and materials which results in a financial loss to
685 the owner, purchaser, or contractor; or falsely indicating that
686 workers' compensation and public liability insurance are
687 provided.

688 (l) Committing fraud or deceit in the practice of
689 contracting.

690 (m) Committing incompetency or misconduct in the practice
691 of contracting.

692 (n) Committing gross negligence, repeated negligence, or
693 negligence resulting in a significant danger to life or
694 property.

695 (o) Proceeding on any job without obtaining applicable
696 local building department permits and inspections.

697 (p) Intimidating, threatening, coercing, or otherwise
 698 discouraging the service of a notice to owner under part I of
 699 chapter 713 or a notice to contractor under chapter 255 or part
 700 I of chapter 713.

701 (q) Failing to satisfy within a reasonable time, the terms
 702 of a civil judgment obtained against the licensee, or the
 703 business organization qualified by the licensee, relating to the
 704 practice of the licensee's profession.

705
 706 For the purposes of this subsection, construction is considered
 707 to be commenced when the contract is executed and the contractor
 708 has accepted funds from the customer or lender. A contractor
 709 does not commit a violation of this subsection when the
 710 contractor relies on a building code interpretation rendered by
 711 a building official or person authorized by s. 553.80 to enforce
 712 the building code, absent a finding of fraud or deceit in the
 713 practice of contracting, or gross negligence, repeated
 714 negligence, or negligence resulting in a significant danger to
 715 life or property on the part of the building official, in a
 716 proceeding under chapter 120.

717 (5) The board may not reinstate the certificate or
 718 ~~certification, registration, or certificate of authority~~ of, or
 719 cause a certificate or, ~~registration, or certificate of~~
 720 ~~authority~~ to be issued to, a person who or business organization
 721 which the board has determined is unqualified or whose
 722 certificate or, ~~registration, or certificate of authority~~ the
 723 board has suspended until it is satisfied that such person or
 724 business organization has complied with all the terms and

725 conditions set forth in the final order and is capable of
 726 competently engaging in the business of contracting.

727 (7) The board shall not issue or renew a certificate or ~~registration,~~
 728 ~~or certificate of authority~~ to any person or
 729 business organization that has been assessed a fine, interest,
 730 or costs associated with investigation and prosecution, or has
 731 been ordered to pay restitution, until such fine, interest, or
 732 costs associated with investigation and prosecution or
 733 restitution are paid in full or until all terms and conditions
 734 of the final order have been satisfied.

735 Section 10. Subsection (5) of section 489.132, Florida
 736 Statutes, is amended to read:

737 489.132 Prohibited acts by unlicensed principals;
 738 investigation; hearing; penalties.--

739 (5) The department may suspend, revoke, or deny issuance
 740 or renewal of a certificate or ~~registration,~~
 741 ~~authority~~ for any individual or business organization that
 742 associates a person as an officer, director, or partner, or in a
 743 managerial or supervisory capacity, after such person has been
 744 found under a final order to have violated this section or was
 745 an officer, director, partner, trustee, or manager of a business
 746 organization disciplined by the board by revocation, suspension,
 747 or fine in excess of \$2,500, upon finding reasonable cause that
 748 such person knew or reasonably should have known of the conduct
 749 leading to the discipline.

750 Section 11. Section 489.140, Florida Statutes, is amended
 751 to read:

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2008

752 489.140 Florida Homeowners' Construction Recovery
 753 Fund.--There is created the Florida Homeowners' Construction
 754 Recovery Fund as a separate account in the Professional
 755 Regulation Trust Fund. The recovery fund shall be funded out of
 756 the receipts deposited in the Professional Regulation Trust Fund
 757 from the one-half cent per square foot surcharge on building
 758 permits collected and disbursed pursuant to s. 468.631. Funding
 759 for the recovery fund shall cease effective June 30, 2010. All
 760 funds remaining in the recovery fund at that time shall be
 761 transferred to the Construction Industry Licensing Board for use
 762 in the regulation of certified and registered contractors.

763 Section 12. Subsection (4) is added to section 489.1401,
 764 Florida Statutes, to read:

765 489.1401 Legislative intent.--

766 (4) It is the intent of the Legislature that no claims
 767 shall be received by the Florida Homeowners' Construction
 768 Recovery Fund after June 30, 2009, and that the recovery fund
 769 shall be abolished effective June 30, 2010.

770 Section 13. This act shall take effect July 1, 2008.