

By Senator Aronberg

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1 A bill to be entitled
2 An act relating to contracting; amending s. 489.105,
3 F.S.; redefining the term "initial issuance"; amending
4 s. 489.115, F.S.; revising requirements for applicants
5 for initial certification as a contractor; authorizing
6 certain certificateholders or registrants to use credit
7 earned for attendance at certain continuing education
8 courses for the purpose of fulfilling specified
9 requirements; requiring that an initial applicant
10 submit a set of fingerprints with his or her
11 application; providing for the payment of costs
12 associated with such fingerprints; requiring that the
13 Department of Law Enforcement forward fingerprints to
14 the Federal Bureau of Investigation for the purpose of
15 performing a criminal background check on the
16 applicant; requiring that the department of Business
17 and Professional Regulation review the results of a
18 background investigation to determine if an applicant
19 meets licensure requirements; authorizing the
20 Construction Industry Licensing Board to review the
21 results of a background investigation for such purpose;
22 authorizing the board to deny licensure under certain
23 circumstances; requiring that the board consider
24 certain information when deciding whether to approve or
25 deny licensure; prohibiting the board from denying
26 licensure to an applicant based solely upon a felony
27 conviction or the applicant's failure to provide proof
28 of restoration of his or her civil rights; authorizing
29 the board to deny licensure based upon an applicant's

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30 lack of good moral character or because the applicant
31 was convicted of a crime related to contracting;
32 requiring that an applicant submit or have on file a
33 surety bond before the initial issuance of a
34 certificate or registration; providing requirements for
35 such bond; providing penalties for failure to maintain
36 such bond; authorizing persons who contract with a
37 certificateholder or registrant for the performance of
38 work that would require a license pursuant to state law
39 to bring an action against the bond for damages
40 resulting from acts by the certificateholder or
41 registrant which constitute violations of state law;
42 providing that a surety may cancel a bond upon a
43 specified period of written notice to the department;
44 providing that such surety remains liable for any
45 damages arising out of a contract entered into before
46 the date on which the surety canceled the bond;
47 providing that an irrevocable letter of credit may be
48 furnished to the department in lieu of a bond;
49 providing for financial recovery by injured consumers
50 against contractors providing such a letter of credit;
51 amending s. 489.119, F.S.; requiring that an applicant
52 seeking to engage in contracting as a business
53 organization apply to qualify the business organization
54 with the department; providing requirements for
55 applications to qualify a business organization;
56 deleting provisions relating to applications as a
57 financially responsible officer and secondary
58 qualifying agent; authorizing the board to deny an

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59 application under certain circumstances; deleting a
60 provision relating to the renewal of a certificate of
61 authority; deleting a provision requiring that a
62 qualifying agent be certified or registered for a
63 business organization to be issued a certificate of
64 authority in the category of the business conducted for
65 which the qualifying agent is certified or registered;
66 deleting a provision requiring the issuance of a
67 certificate of authority under certain circumstances;
68 deleting a provision relating to disciplinary action
69 against a business organization holding a certificate
70 of authority; providing requirements for an application
71 for an occupational license in a county or
72 municipality; providing for the issuance of
73 registration or certification numbers in lieu of
74 certificate of authority numbers; requiring that such
75 number appear on certain documents; providing for the
76 payment of a fee to qualify as a new business
77 organization; requiring that a qualifying agent provide
78 evidence of certain information to the department when
79 attempting to qualify additional business
80 organizations; providing that approval for each
81 business organization is discretionary with the board;
82 amending s. 489.1195, F.S.; prohibiting the board from
83 approving secondary qualifying agents or financially
84 responsible officers after a specified date; amending
85 ss. 489.127, 489.128, and 489.129, F.S.; revising
86 provisions to conform to changes made by the act;
87 amending s. 489.140, F.S.; requiring that funding for

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88 the Florida Homeowners' Construction Recovery Fund
89 cease on a specified date; requiring that all funds
90 remaining in the recovery fund at that time be
91 transferred to the board; amending s. 489.1401, F.S.;
92 providing legislative intent; providing an effective
93 date.

94

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

96

97 Section 1. Subsection (19) of section 489.105, Florida
98 Statutes, is amended to read:

99 489.105 Definitions.--As used in this part:

100 (19) "Initial issuance" means the first time a certificate
101 or registration is granted to an individual ~~or business~~
102 ~~organization~~, including the first time an individual becomes a
103 qualifying agent for a ~~that~~ business organization and the first
104 time a business organization is qualified by that individual.

105 Section 2. Subsections (5), (6), (7), (8), and (9) of
106 section 489.115, Florida Statutes, are amended to read:

107 489.115 Certification and registration; endorsement;
108 reciprocity; renewals; continuing education.--

109 (5)(a) As a prerequisite to the initial issuance or the
110 renewal of a certificate or registration, the applicant shall
111 submit an affidavit on a form provided by the board attesting to
112 the fact that the applicant has obtained workers' compensation
113 insurance as required by chapter 440, public liability insurance,
114 and property damage insurance for the safety and welfare of the
115 public, in amounts determined by rule of the board. The board

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116 shall by rule establish a procedure to verify the accuracy of
117 such affidavits based upon a random sample method.

118 ~~(b) In addition to the affidavit of insurance, as a~~
119 ~~prerequisite to the initial issuance of a certificate, the~~
120 ~~applicant shall furnish a credit report from a nationally~~
121 ~~recognized credit agency that reflects the financial~~
122 ~~responsibility of the applicant and evidence of financial~~
123 ~~responsibility, credit, and business reputation of either himself~~
124 ~~or herself or the business organization he or she desires to~~
125 ~~qualify. The board shall adopt rules defining financial~~
126 ~~responsibility based upon the applicant's credit history, ability~~
127 ~~to be bonded, and any history of bankruptcy or assignment of~~
128 ~~receivers. The board may also adopt rules that would allow~~
129 ~~applicants to demonstrate financial responsibility, as an~~
130 ~~alternative to the foregoing, by providing minimum credit scores~~
131 ~~or bonds payable as prescribed for financially responsible~~
132 ~~officers. Such rules shall specify the financial responsibility~~
133 ~~grounds on which the board may refuse to qualify an applicant for~~
134 ~~certification.~~

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

140 (c)(d) An applicant for initial issuance of a certificate
141 or registration shall submit as a prerequisite to qualifying for
142 an exemption from workers' compensation coverage requirements
143 under s. 440.05 an affidavit attesting to the fact that the

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144 applicant will obtain an exemption within 30 days after the date
145 the initial certificate or registration is issued by the board.

146 (6) If a certificateholder or registrant holds a license
147 under both this part and part II and is required to complete
148 continuing education courses pursuant to s. 489.517(3), the
149 certificateholder or registrant may apply hours earned for
150 courses regarding workers' compensation, workplace safety, and
151 business practices toward his or her satisfaction of the
152 requirements of this part.

153 (7) (a) An initial applicant shall submit, along with the
154 application, a complete set of fingerprints in a form and manner
155 required by the department. Fingerprints shall be submitted to
156 the Department of Law Enforcement for processing and forwarding
157 to the Federal Bureau of Investigation for the purpose of
158 conducting a Level 2 background screening pursuant to s. 435.04.
159 The department shall and the board may review the results of the
160 background check to determine if an applicant meets licensure
161 requirements. The cost of processing fingerprints shall be borne
162 by the applicant. Such costs shall be collected by the
163 appropriate authorized agencies or vendors, who shall forward the
164 processing costs to the Department of Law Enforcement.

165 (b) If an applicant has been convicted of a felony, the
166 board may deny licensure to the applicant based upon the severity
167 of the crime, the relationship of the crime to the profession of
168 contracting, or the potential for public harm that would result
169 from the granting of a license to the applicant. When approving
170 or denying a license, the board must also consider the amount of
171 time that has elapsed since the conviction or convictions, as
172 well as the degree of rehabilitation of the applicant. The board

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173 may not deny licensure to an applicant based solely upon a felony
174 conviction or the applicant's failure to provide proof of
175 restoration of his or her civil rights. This section does not
176 prevent the board from denying licensure based upon a lack of
177 good moral character or because the applicant was convicted of a
178 crime related to contracting.

179 (8) (a) As a prerequisite to the initial issuance of a
180 certificate or registration, the applicant shall submit or have
181 on file a bond, on a form provided by the department, with a
182 surety admitted to write insurance in Florida naming the State of
183 Florida as the obligee. A separate bond shall be required for
184 each business organization qualified by the certificateholder or
185 registrant, including any licenses held as an individual. The
186 bond shall remain in full force and effect until the license is
187 revoked or designated as inactive. An applicant is not required
188 to provide any additional evidence of financial responsibility in
189 order to qualify for licensure.

190 (b) The bond shall be for the use and benefit of any person
191 who contracts with the certificateholder or registrant for the
192 performance of work that would require a license pursuant to this
193 chapter, including subcontractors and suppliers supplying labor
194 or materials for such work. Such persons may bring an action
195 against the bond for damages resulting from acts by the
196 certificateholder or registrant constituting a violation or
197 violations of s. 489.129(1). Any such action must be brought
198 within 2 years after the date on which the bond terminates,
199 expires, or is cancelled, or the date on which the
200 certificateholder or registrant committed the breach of contract,
201 whichever is earlier.

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202 (c) Notwithstanding the number of years the bond has been
203 in force, the number of premiums paid, or the number of claims or
204 claimants, the amount of the bond shall be \$75,000 for a
205 certificateholder or registrant, and the aggregate liability of
206 the surety, including any liability for attorney's fees, may not
207 exceed that amount. Failure to maintain the bond may result in
208 disciplinary action, and shall result in the certificateholder's
209 or registrant's license being designated as inactive.

210 (d) The surety may cancel the bond upon no less than 30
211 days' written notice to the department. However, the surety
212 remains liable for any damages arising out of a contract entered
213 into before the effective date of such cancellation.

214 (e) An irrevocable letter of credit may be furnished to the
215 department in lieu of the bond requirement prescribed in this
216 subsection. The letter of credit must be for \$75,000 and must be
217 assigned to the department. A certificateholder or registrant may
218 collect all interest on the letter of credit. Injured consumers
219 may apply to the department for payment from the letter of credit
220 after securing a civil judgment or criminal order of restitution
221 based upon a violation of s. 489.129(1). The claim for recovery
222 must be filed within 1 year after the date on which the civil or
223 criminal action is resolved.

224 ~~(6) An applicant for initial issuance of a certificate or~~
225 ~~registration shall submit to a statewide criminal history records~~
226 ~~check through the Department of Law Enforcement. The Department~~
227 ~~of Business and Professional Regulation shall submit the requests~~
228 ~~for the criminal history records check to the Department of Law~~
229 ~~Enforcement for state processing, and the Department of Law~~
230 ~~Enforcement shall return the results to the department to~~

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231 ~~determine if the applicant meets certification or registration~~
232 ~~requirements. If the applicant has been convicted of a felony,~~
233 ~~the board may deny licensure to the applicant based upon the~~
234 ~~severity of the crime, the relationship of the crime to~~
235 ~~contracting, or the potential for public harm. The board shall~~
236 ~~also, in denying or approving licensure, consider the length of~~
237 ~~time since the commission of the crime and the rehabilitation of~~
238 ~~the applicant. The board may not deny licensure to an applicant~~
239 ~~based solely upon a felony conviction or the applicant's failure~~
240 ~~to provide proof of restoration of civil rights.~~

241 ~~(7) An initial applicant shall, along with the application,~~
242 ~~and a certificateholder or registrant shall, upon requesting a~~
243 ~~change of status, submit to the board a credit report from a~~
244 ~~nationally recognized credit agency that reflects the financial~~
245 ~~responsibility of the applicant or certificateholder or~~
246 ~~registrant. The credit report required for the initial applicant~~
247 ~~shall be considered the minimum evidence necessary to satisfy the~~
248 ~~board that he or she is financially responsible to be certified,~~
249 ~~has the necessary credit and business reputation to engage in~~
250 ~~contracting in the state, and has the minimum financial stability~~
251 ~~necessary to avoid the problem of financial mismanagement or~~
252 ~~misconduct. The board shall, by rule, adopt guidelines for~~
253 ~~determination of financial stability, which may include minimum~~
254 ~~requirements for net worth, cash, and bonding for Division I~~
255 ~~certificateholders of no more than \$20,000 and for Division II~~
256 ~~certificateholders of no more than \$10,000. Fifty percent of the~~
257 ~~financial requirements may be met by completing a 14-hour~~
258 ~~financial responsibility course approved by the board.~~

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259 ~~(8) If a certificateholder or registrant holds a license~~
260 ~~under both this part and part II and is required to have~~
261 ~~continuing education courses under s. 489.517(3), the~~
262 ~~certificateholder or registrant may apply these course hours for~~
263 ~~workers' compensation, workplace safety, and business practices~~
264 ~~obtained under part II to the requirements under this part.~~

265 ~~(9) An initial applicant shall submit, along with the~~
266 ~~application, a complete set of fingerprints in a form and manner~~
267 ~~required by the department. The fingerprints shall be submitted~~
268 ~~to the Department of Law Enforcement for state processing, and~~
269 ~~the Department of Law Enforcement shall forward them to the~~
270 ~~Federal Bureau of Investigation for the purpose of conducting a~~
271 ~~level 2 background check pursuant to s. 435.04. The department~~
272 ~~shall and the board may review the background results to~~
273 ~~determine if an applicant meets licensure requirements. The cost~~
274 ~~for the fingerprint processing shall be borne by the person~~
275 ~~subject to the background screening. These fees are to be~~
276 ~~collected by the authorized agencies or vendors. The authorized~~
277 ~~agencies or vendors are responsible for paying the processing~~
278 ~~costs to the Department of Law Enforcement.~~

279 Section 3. Section 489.119, Florida Statutes, is amended to
280 read:

281 489.119 Business organizations; qualifying agents.--

282 (1) If an individual proposes to engage in contracting in
283 the individual's own name, or a fictitious name where the
284 individual is doing business as a sole proprietorship,
285 registration or certification may be issued only to that
286 individual.

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287 (2) If the applicant proposes to engage in contracting as a
288 business organization, including any partnership, corporation,
289 business trust, or other legal entity, or in any name other than
290 the applicant's legal name or a fictitious name where the
291 applicant is doing business as a sole proprietorship, the
292 applicant must apply to qualify the business organization ~~the~~
293 ~~business organization must apply for a certificate of authority~~
294 ~~through a qualifying agent and under the fictitious name, if any.~~

295 (a) The application to qualify as a business organization
296 ~~for a certificate of authority~~ must state the name of the
297 partnership and of its partners; the name of the corporation and
298 of its officers and directors and the name of each of its
299 stockholders who is also an officer or director; the name of the
300 business trust and its trustees; or the name of such other legal
301 entity and its members; and must state the fictitious name, if
302 any, under which the business organization is doing business.

303 (b)~~1.~~ The application to qualify as a business organization
304 ~~for primary qualifying agent~~ must include an affidavit on a form
305 provided by the board attesting that the applicant has final
306 approval authority for all construction work performed by the
307 entity and that the applicant has final approval authority on all
308 business matters, including contracts, specifications, checks,
309 drafts, or payments, regardless of the form of payment, made by
310 the entity, ~~except where a financially responsible officer is~~
311 ~~approved.~~

312 ~~2.~~ ~~The application for financially responsible officer must~~
313 ~~include an affidavit on a form provided by the board attesting~~
314 ~~that the applicant's approval is required for all checks, drafts,~~
315 ~~or payments, regardless of the form of payment, made by the~~

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316 ~~entity and that the applicant has authority to act for the~~
317 ~~business organization in all financial matters.~~

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

322 (c) The board may deny the application to qualify the
323 business organization if any person cited in paragraph (a) has
324 been involved in past disciplinary actions or on any grounds for
325 which individual certification may be denied.

326 ~~(d)(b)~~ The applicant must furnish evidence of statutory
327 compliance if a fictitious name is used, the provisions of s.
328 865.09(7) notwithstanding.

329 ~~(e)(e)~~ A joint venture, including a joint venture composed
330 of qualified business organizations, is itself a separate and
331 distinct organization that must be qualified ~~and obtain a~~
332 ~~certificate of authority~~ in accordance with board rules.

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

338 (3) (a) ~~The qualifying agent shall be certified or~~
339 ~~registered under this part in order for the business organization~~
340 ~~to be issued a certificate of authority in the category of the~~
341 ~~business conducted for which the qualifying agent is certified or~~
342 ~~registered.~~ If any qualifying agent ceases to be affiliated with
343 such business organization, he or she shall so inform the
344 department. In addition, if such qualifying agent is the only

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345 certified or registered contractor affiliated with the business
346 organization, the business organization shall notify the
347 department of the termination of the qualifying agent and shall
348 have 60 days from the termination of the qualifying agent's
349 affiliation with the business organization in which to employ
350 another qualifying agent. The business organization may not
351 engage in contracting until a qualifying agent is employed,
352 unless the executive director or chair of the board has granted a
353 temporary nonrenewable certificate or registration to the
354 financially responsible officer, the president, a partner, or, in
355 the case of a limited partnership, the general partner, who
356 assumes all responsibilities of a primary qualifying agent for
357 the entity. This temporary certificate or registration shall only
358 allow the entity to proceed with incomplete contracts. For the
359 purposes of this paragraph, an incomplete contract is one which
360 has been awarded to, or entered into by, the business
361 organization prior to the cessation of affiliation of the
362 qualifying agent with the business organization or one on which
363 the business organization was the low bidder and the contract is
364 subsequently awarded, regardless of whether any actual work has
365 commenced under the contract prior to the qualifying agent
366 ceasing to be affiliated with the business organization.

367 (b) The qualifying agent shall inform the department in
368 writing when he or she proposes to engage in contracting in his
369 or her own name or in affiliation with another business
370 organization, and he or she or such new business organization
371 shall supply the same information to the department as required
372 of applicants under this part.

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373 ~~(c) Upon a favorable determination by the board, after~~
374 ~~investigation of the financial responsibility, credit, and~~
375 ~~business reputation of the qualifying agent and the new business~~
376 ~~organization, the department shall issue, without an examination,~~
377 ~~a new certificate of authority in the business organization's~~
378 ~~name.~~

379 ~~(4) Disciplinary action against a business organization~~
380 ~~holding a certificate of authority shall be administered in the~~
381 ~~same manner and on the same grounds as disciplinary action~~
382 ~~against a contractor. The board may deny the certification of any~~
383 ~~person cited in subsection (2) if the person has been involved in~~
384 ~~past disciplinary actions or on any grounds for which individual~~
385 ~~certification can be denied.~~

386 (4)~~(5)~~ When a certified qualifying agent, on behalf of a
387 business organization, makes application for an occupational
388 license in any municipality or county of this state, the
389 application shall be made with the tax collector in the name of
390 the business organization and the qualifying agent; and the
391 license, when issued, shall be issued to the business
392 organization, upon payment of the appropriate licensing fee and
393 exhibition to the tax collector of a valid certificate for the
394 qualifying agent ~~and a valid certificate of authority for the~~
395 ~~business organization~~ issued by the department, and the state
396 license number ~~numbers~~ shall be noted thereon.

397 (5)~~(6)~~(a) Each registered or certified contractor shall
398 affix the number of his or her registration or certification to
399 each application for a building permit and on each building
400 permit issued and recorded. Each city or county building
401 department shall require, as a precondition for the issuance of

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402 the building permit, that the contractor taking out the permit
403 must provide verification giving his or her Construction Industry
404 Licensing Board registration or certification number.

405 (b) The registration or certification number of each
406 contractor ~~or certificate of authority number~~ for each business
407 organization shall appear in each offer of services, business
408 proposal, bid, contract, or advertisement, regardless of medium,
409 as defined by board rule, used by that contractor or business
410 organization in the practice of contracting.

411 (c) If a vehicle bears the name of a contractor or business
412 organization, or any text or artwork that ~~which~~ would lead a
413 reasonable person to believe that the vehicle is used for
414 contracting, the registration or certification number of the
415 contractor ~~or certificate of authority number of the business~~
416 ~~organization~~ must be conspicuously and legibly displayed with the
417 name, text, or artwork. Local governments may also require that
418 locally licensed contractors must also display their certificate
419 of competency or license numbers. Nothing in this paragraph shall
420 be construed to create a mandatory vehicle signage requirement.

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

424 (e) The board shall issue a notice of noncompliance for the
425 first offense, and may assess a fine or issue a citation for
426 failure to correct the offense within 30 days or for any
427 subsequent offense, to any contractor or business organization
428 that fails to include the registration or certification
429 ~~certification, registration, or certificate of authority number~~
430 as required by this part when submitting an advertisement for

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431 publication, broadcast, or printing or fails to display the
432 registration or certification ~~certification, registration, or~~
433 ~~certificate of authority~~ number as required by this part.

434 (6) ~~(7)~~ Each qualifying agent shall pay the department an
435 amount equal to the original fee to qualify ~~for a certificate of~~
436 ~~authority of~~ a new business organization. If the qualifying agent
437 for a business organization desires to qualify additional
438 business organizations, the board shall require him or her to
439 present evidence of his or her ability to supervise the
440 construction activities ~~and financial responsibility~~ of each such
441 organization. Approval for each business organization ~~The~~
442 ~~issuance of such certificate of authority~~ is discretionary with
443 the board.

444 (7) ~~(8)~~ (a) A business organization proposing to engage in
445 contracting is not required to apply for or obtain authorization
446 under this part to engage in contracting if:

447 1. The business organization employs one or more registered
448 or certified contractors licensed in accordance with this part
449 who are responsible for obtaining permits and supervising all of
450 the business organization's contracting activities;

451 2. The business organization engages only in contracting on
452 property owned by the business organization or by its parent,
453 subsidiary, or affiliated entities; and

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

457 (b) Any business organization engaging in contracting under
458 this subsection shall provide the board with the name and license
459 number of each registered or certified contractor employed by the

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460 business organization to supervise its contracting activities.
461 The business organization is not required to post a bond or
462 otherwise evidence any financial or credit information except as
463 necessary to demonstrate compliance with paragraph (a).

464 (c) A registered or certified contractor employed by a
465 business organization to supervise its contracting activities
466 under this subsection shall not be required to post a bond or
467 otherwise evidence any personal financial or credit information
468 so long as the individual performs contracting activities
469 exclusively on behalf of a business organization meeting all of
470 the requirements of paragraph (a).

471 Section 4. Subsection (1) of section 489.1195, Florida
472 Statutes, is amended to read:

473 489.1195 Responsibilities.--

474 (1) The board may not approve secondary qualifying agents
475 or financially responsible officers after June 30, 2008. A
476 ~~qualifying agent is a primary qualifying agent unless he or she~~
477 ~~is a secondary qualifying agent under this section.~~

478 (a) All primary qualifying agents for a business
479 organization are jointly and equally responsible for supervision
480 of all operations of the business organization; for all field
481 work at all sites; and for financial matters, both for the
482 organization in general and for each specific job.

483 (b) Upon approval by the board, a business entity may
484 designate a financially responsible officer for purposes of
485 certification or registration. A financially responsible officer
486 shall be responsible for all financial aspects of the business
487 organization and may not be designated as the primary qualifying
488 agent. The designated financially responsible officer shall

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489 furnish evidence of the financial responsibility, credit, and
490 business reputation of either himself or herself, or the business
491 organization he or she desires to qualify, as determined
492 appropriate by the board.

493 (c) Where a business organization has a certified or
494 registered financially responsible officer, the primary
495 qualifying agent shall be responsible for all construction
496 activities of the business organization, both in general and for
497 each specific job.

498 (d) The board shall adopt rules prescribing the
499 qualifications for financially responsible officers, including
500 net worth, cash, and bonding requirements. These qualifications
501 must be at least as extensive as the requirements for the
502 financial responsibility of qualifying agents.

503 Section 5. Subsection (1) of section 489.127, Florida
504 Statutes, is amended to read:

505 489.127 Prohibitions; penalties.--

506 (1) No person shall:

507 (a) Falsely hold himself or herself or a business
508 organization out as a licensee, certificateholder, or registrant;

509 (b) Falsely impersonate a certificateholder or registrant;

510 (c) Present as his or her own the certificate,
511 registration, or certificate of authority of another;

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

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

516 (f) Engage in the business or act in the capacity of a
517 contractor or advertise himself or herself or a business

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518 organization as available to engage in the business or act in the
519 capacity of a contractor without being duly registered or
520 certified ~~or having a certificate of authority;~~

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

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

528 (i) Willfully or deliberately disregard or violate any
529 municipal or county ordinance relating to uncertified or
530 unregistered contractors.

531

532 For purposes of this subsection, a person or business
533 organization operating on an inactive or suspended certificate,
534 registration, or certificate of authority is not duly certified
535 or registered and is considered unlicensed. A business tax
536 receipt issued under the authority of chapter 205 is not a
537 license for purposes of this part.

538 Section 6. Paragraph (b) of subsection (1) of section
539 489.128, Florida Statutes, is amended to read:

540 489.128 Contracts entered into by unlicensed contractors
541 unenforceable.--

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

545 (b) For purposes of this section, an individual or business
546 organization may not be considered unlicensed for failing to have

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547 a business tax receipt issued under the authority of chapter 205.
548 A business organization may not be considered unlicensed for
549 failing to have a certificate of authority as formerly required
550 by ss. 489.119 and 489.127. For purposes of this section, a
551 business organization entering into the contract may not be
552 considered unlicensed if, before the date established by
553 paragraph (c), an individual possessing a license required by
554 this part concerning the scope of the work to be performed under
555 the contract has submitted an application ~~for a certificate of~~
556 ~~authority~~ designating that individual as a qualifying agent for
557 the business organization entering into the contract, and the
558 application was not acted upon by the department or applicable
559 board within the time limitations imposed by s. 120.60.

560 Section 7. Subsections (1), (5), and (7) of section
561 489.129, Florida Statutes, are amended to read:

562 489.129 Disciplinary proceedings.--

563 (1) The board may take any of the following actions against
564 any certificateholder or registrant: place on probation or
565 reprimand the licensee, revoke, suspend, or deny the issuance or
566 renewal of the certificate, registration, or certificate of
567 authority, require financial restitution to a consumer for
568 financial harm directly related to a violation of a provision of
569 this part, require the licensing bond as provided for in s.
570 489.115(8), impose an administrative fine not to exceed \$10,000
571 per violation, require continuing education, or assess costs
572 associated with investigation and prosecution, if the contractor,
573 financially responsible officer, or business organization for
574 which the contractor is a primary qualifying agent, a financially

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575 responsible officer, or a secondary qualifying agent responsible
576 under s. 489.1195 is found guilty of any of the following acts:

577 (a) Obtaining a registration or certification ~~certificate,~~
578 ~~registration, or certificate of authority~~ by fraud or
579 misrepresentation.

580 (b) Being convicted or found guilty of, or entering a plea
581 of nolo contendere to, regardless of adjudication, a crime in any
582 jurisdiction which directly relates to the practice of
583 contracting or the ability to practice contracting.

584 (c) Violating any provision of chapter 455.

585 (d) Performing any act which assists a person or entity in
586 engaging in the prohibited uncertified and unregistered practice
587 of contracting, if the certificateholder or registrant knows or
588 has reasonable grounds to know that the person or entity was
589 uncertified and unregistered.

590 (e) Knowingly combining or conspiring with an uncertified
591 or unregistered person by allowing his or her certificate,
592 registration, or certificate of authority to be used by the
593 uncertified or unregistered person with intent to evade the
594 provisions of this part. When a certificateholder or registrant
595 allows his or her certificate or registration to be used by one
596 or more business organizations without having any active
597 participation in the operations, management, or control of such
598 business organizations, such act constitutes prima facie evidence
599 of an intent to evade the provisions of this part.

600 (f) Acting in the capacity of a contractor under any
601 certificate or registration issued hereunder except in the name
602 of the certificateholder or registrant as set forth on the issued
603 certificate or registration, or in accordance with the personnel

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604 of the certificateholder or registrant as set forth in the
605 application for the certificate or registration, or as later
606 changed as provided in this part.

607 (g) Committing mismanagement or misconduct in the practice
608 of contracting that causes financial harm to a customer.
609 Financial mismanagement or misconduct occurs when:

610 1. Valid liens have been recorded against the property of a
611 contractor's customer for supplies or services ordered by the
612 contractor for the customer's job; the contractor has received
613 funds from the customer to pay for the supplies or services; and
614 the contractor has not had the liens removed from the property,
615 by payment or by bond, within 75 days after the date of such
616 liens;

617 2. The contractor has abandoned a customer's job and the
618 percentage of completion is less than the percentage of the total
619 contract price paid to the contractor as of the time of
620 abandonment, unless the contractor is entitled to retain such
621 funds under the terms of the contract or refunds the excess funds
622 within 30 days after the date the job is abandoned; or

623 3. The contractor's job has been completed, and it is shown
624 that the customer has had to pay more for the contracted job than
625 the original contract price, as adjusted for subsequent change
626 orders, unless such increase in cost was the result of
627 circumstances beyond the control of the contractor, was the
628 result of circumstances caused by the customer, or was otherwise
629 permitted by the terms of the contract between the contractor and
630 the customer.

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

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

636 (j) Abandoning a construction project in which the
637 contractor is engaged or under contract as a contractor. A
638 project may be presumed abandoned after 90 days if the contractor
639 terminates the project without just cause or without proper
640 notification to the owner, including the reason for termination,
641 or fails to perform work without just cause for 90 consecutive
642 days.

643 (k) Signing a statement with respect to a project or
644 contract falsely indicating that the work is bonded; falsely
645 indicating that payment has been made for all subcontracted work,
646 labor, and materials which results in a financial loss to the
647 owner, purchaser, or contractor; or falsely indicating that
648 workers' compensation and public liability insurance are
649 provided.

650 (l) Committing fraud or deceit in the practice of
651 contracting.

652 (m) Committing incompetency or misconduct in the practice
653 of contracting.

654 (n) Committing gross negligence, repeated negligence, or
655 negligence resulting in a significant danger to life or property.

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

658 (p) Intimidating, threatening, coercing, or otherwise
659 discouraging the service of a notice to owner under part I of
660 chapter 713 or a notice to contractor under chapter 255 or part I
661 of chapter 713.

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662 (q) Failing to satisfy within a reasonable time, the terms
663 of a civil judgment obtained against the licensee, or the
664 business organization qualified by the licensee, relating to the
665 practice of the licensee's profession.

666
667 For the purposes of this subsection, construction is considered
668 to be commenced when the contract is executed and the contractor
669 has accepted funds from the customer or lender. A contractor does
670 not commit a violation of this subsection when the contractor
671 relies on a building code interpretation rendered by a building
672 official or person authorized by s. 553.80 to enforce the
673 building code, absent a finding of fraud or deceit in the
674 practice of contracting, or gross negligence, repeated
675 negligence, or negligence resulting in a significant danger to
676 life or property on the part of the building official, in a
677 proceeding under chapter 120.

678 (5) The board may not reinstate the certification or
679 registration of, or ~~certificate of authority of, or~~ cause a
680 certification or ~~certificate,~~ registration, ~~or certificate of~~
681 ~~authority~~ to be issued to, a person ~~who~~ or business organization
682 that ~~which~~ the board has determined is unqualified or whose
683 registration or certification ~~certificate, registration, or~~
684 ~~certificate of authority~~ the board has suspended until it is
685 satisfied that such person or business organization has complied
686 with all the terms and conditions set forth in the final order
687 and is capable of competently engaging in the business of
688 contracting.

689 (7) The board shall not issue or renew a registration or
690 certification ~~certificate, registration, or certificate of~~

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691 ~~authority~~ to any person or business organization that has been
692 assessed a fine, interest, or costs associated with investigation
693 and prosecution, or has been ordered to pay restitution, until
694 such fine, interest, or costs associated with investigation and
695 prosecution or restitution are paid in full or until all terms
696 and conditions of the final order have been satisfied.

697 Section 8. Section 489.140, Florida Statutes, is amended to
698 read:

699 489.140 Florida Homeowners' Construction Recovery
700 Fund.--There is created the Florida Homeowners' Construction
701 Recovery Fund as a separate account in the Professional
702 Regulation Trust Fund. The recovery fund shall be funded out of
703 the receipts deposited in the Professional Regulation Trust Fund
704 from the one-half cent per square foot surcharge on building
705 permits collected and disbursed pursuant to s. 468.631. Funding
706 for the recovery fund shall cease effective June 30, 2010. All
707 funds remaining in the recovery fund at that time shall be
708 transferred to the Construction Industry Licensing Board.

709 Section 9. Subsection (4) is added to section 489.1401,
710 Florida Statutes, to read:

711 489.1401 Legislative intent.--

712 (4) It is the intent of the Legislature that no claims be
713 received by the recovery fund after June 30, 2009, and that the
714 Florida Homeowners' Construction Recovery Fund be abolished
715 effective June 30, 2010.

716 Section 10. This act shall take effect July 1, 2008.